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General Assembly

FORTY-NINTH SESSION

Official Records

THIRD COMMITTEE
33rd meeting
held on
Wednesday, 16 November 1994
at 3 p.m.
New York

SUMMARY RECORD OF THE 33rd MEETING

Chairman: Mr. CISSÉ (Senegal)

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A/C.3/49/SR.33
2 December 1994

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94-82341 (E)

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (A/49/57 and Corr.1, A/49/58, A/49/75-S/1994/180, A/49/182, 206, 220, 221, 265, 271, 282, 283, 286, A/49/287-S/1994/894 and Corr.1, A/49/292, 298, 304, 386, 422, 532 and 591)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (A/49/40, 41, 44, A/49/228-S/1994/827, A/49/261-E/1994/110, A/49/264-E/1994/113, A/49/364, 405, 408, 409, 426, 484 and Add.1, 537 and 642; E/1994/23; A/C.3/49/5 and 6)

(e) CAPITAL PUNISHMENT (A/49/234 and Add.1 and 2)

1. Mr. FALL (Assistant Secretary-General for Human Rights), introducing sub-item 100 (a) said that the United Nations human rights instruments were universal in nature and application, and lay at the core of the international human rights order. The standards set forth in them served as a guide for the Organization's various activities, from economic and social development to international peace-keeping. Much more progress had to be made towards the goal of universal ratification of the basic international human rights treaties, an important objective affirmed in the 1993 Vienna Declaration and Programme of Action.

2. The bodies monitoring implementation of the human rights treaties constituted an integrated system that dealt with the broad spectrum of human rights as an indivisible and interdependent whole. Their work represented an invaluable guide for applying those standards in diverse legal systems in all regions of the world. It was therefore imperative that the treaty bodies should receive the necessary support in monitoring and facilitating implementation of human rights standards in an ever-increasing number of States.

3. There had been many notable developments in 1994 in that area, including the fifth meeting of persons chairing the human rights treaty bodies. Those meetings had become one of the most dynamic and innovative forums in the field of human rights. The report of the fifth meeting (A/49/537) contained many valuable suggestions and recommendations aimed at improving the work of the treaty bodies and ensuring more effective coordination in areas of common concern with other United Nations bodies and agencies. In 1994, the treaty bodies had continued to improve their methods of work, particularly in following up their concluding observations with respect to country reports and establishing closer links between their recommendations and the advisory services and technical assistance of the Centre for Human Rights.

4. The Human Rights Committee, as indicated in its report (A/49/40), had adopted two general comments, one on the issue of minority rights under article 27 of the International Covenant on Civil and Political Rights, and the other on a variety of key issues relating to reservations: it had also continued its practice of requesting States parties facing serious difficulties in implementing the Covenant to submit urgent reports, generally within three

months. The Human Rights Committee had, in addition, taken some 60 decisions on individual cases under the Optional Protocol.

5. The Committee on Economic, Social and Cultural Rights, whose report was contained in document E/1994/23, had noted the important role that the advisory services and technical assistance of the Centre for Human Rights could play in assisting States parties in implementing the International Covenant on Economic, Social and Cultural Rights. In that connection, it had decided to identify the most useful types of projects to promote economic, social and cultural rights and had emphasized the role that the 1995 World Summit for Social Development should play in promoting those rights.

6. The Committee against torture, as indicated in its report (A/49/44), had devoted nearly half of its meetings to confidential inquiries under article 20 and individual complaints under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition to considering numerous State reports, it had provided valuable input to the working group of the Commission on Human Rights elaborating the draft optional protocol to the Convention and had met with the Special Rapporteur on questions relating to torture on matters of mutual concern in order to strengthen cooperation.

7. The Convention on the Rights of the Child was the first human rights treaty that was approaching universal ratification, with 167 States parties as of 1 November 1994. The Committee on the Rights of the Child, as emerged from its report (A/49/41), was fully engaged in the consideration of States reports. It had adopted detailed observations on steps to be taken by States parties to apply the provisions of the Convention more effectively, and had worked to mobilize international assistance to help States parties comply with its recommendations. That Committee held regular meetings with relevant United Nations bodies, specialized agencies and other competent bodies in order to consider ways to strengthen cooperation and achieve common goals as defined by the Vienna Declaration and Programme of Action. It had held general discussions on specific articles of the Convention or related subjects, and had also prepared a preliminary draft optional protocol on involvement of children in armed conflicts. The Centre for Human Rights had sought to enhance its support for that Committee and was implementing a comprehensive computerized database project on the Convention on the Rights of the Child, which would ultimately serve as the basis for computerizing the work of all of the treaty bodies.

8. In addition to helping the victims of torture directly, the United Nations Voluntary Fund for Victims of Torture had also been able to assist relatives of those victims and had contributed to the development and application of suitable treatment for torture victims. The Secretary-General's report was contained in document A/49/484. On behalf of the Secretary-General, the High Commissioner for Human Rights had approved recommendations by the Fund's Board of Trustees for financing 106 projects and sub-projects in 60 countries.

9. Mr. MUCH (Germany), speaking on behalf of the European Union and Austria, said that the Vienna Declaration and Programme of Action had underlined the

universality of human rights and the need to strengthen the system of human rights treaty-monitoring bodies. To that end, they encouraged those bodies to continue their efforts to increase coordination among themselves and welcomed the definition by the High Commissioner for Human Rights of his role as essentially one of facilitating and coordinating their fact-finding and evaluation efforts.

10. In accordance with the consensus reached at Vienna, the European Union would defend the existing monitoring mechanisms against any attempts to reduce their scope or interfere with the independent execution of their mandates. It welcomed the campaign inspired by that consensus for universal adherence to the human rights instruments. In that connection, they called on States which had entered reservations to consider withdrawing them.

11. Given its diverse make-up, the Union was well aware of the significance of historical, cultural and religious particularities. It was convinced, however, that such differences did not constitute grounds for exemption from any human rights treaty obligations, including monitoring. The fact was that States stood to benefit from full and constructive cooperation with the monitoring mechanisms. That meant providing all requested information, facilitating visits and giving adequate follow-up to recommendations. It also meant submitting full and timely reports, even if some simplifications in the rules for their preparation had been rightfully recommended.

12. The European Union urged States to declare that they accepted the procedures for complaints by individuals laid down in the international human rights instruments. In addition, it welcomed the innovative approach to treaty monitoring outlined in the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In future negotiations, it would be essential not to burden the envisaged procedure with restrictions or preconditions that would diminish its deterrent effect. It was the solemn duty of the international community to ensure that the human rights instruments were effectively and comprehensively translated into fact.

13. Mrs. FERRARO (United States of America) said that her Government was committed to working with the international community to build a world based on the principles of human rights, democracy and the rule of law in the search for solutions to global challenges. The United States had taken a number of steps towards ratifying the key human rights instruments. It had ratified the Convention against Torture, urging all nations to adopt legislation to prevent incommunicado detention and permit human rights bodies to carry out on-site inspections of all detention facilities. Those who committed torture should be held individually accountable for their acts and there should be no statute of limitation for prosecuting them. The United States was also the leader in assisting victims of torture, and in 1994 had contributed $1.5 million to the United Nations Voluntary Fund for Victims of Torture.

14. Her country had also ratified the International Convention on the Elimination of All Forms of Racial Discrimination and was pleased that the Commission on Human Rights had reached a consensus that anti-Semitism was a form

of racism. The United States was looking forward to playing a more effective role in the discussion of evolving international norms and would share with the international community its hard-won experience in combating racism and other forms of discrimination.

15. Her country had submitted its initial report to the Human Rights Committee in compliance with the International Covenant on Civil and Political Rights. The United States legal and political systems provided superlative human rights protections and it was proud of its record, while working hard to remedy its shortcomings. Her Government was also actively pursuing ratification of the Convention on the Elimination of All Forms of Discrimination against Women. All those measures were part of a greater effort to imbue the United Nations human rights system with new energy and purpose. By working together, Governments, multilateral organizations and non-governmental organizations could have a deep and lasting effect on the development and strengthening of human rights mechanisms.

16. Mr. PACE (Malta) said that, having progressed to the full flowering of just, consensual societies, the world should make an essential conceptual breakthrough by acknowledging that the vision of a single world-wide human community had become a reality. Since the end of the Second World War, there had been a growth in the number of democratic nations striving to give their citizens the basic freedoms which had been the cornerstone of political philosophy since the eighteenth century. The human personality could not develop without full respect for human rights, and democratic societies could not survive without the rule of law. It was a universal duty to secure the protection and promotion of human rights. The notion that the State existed to serve the individual, rather than the reverse, had originated many years before but was still entirely valid. The fact that realities did not always live up to such principles served to emphasize the need to strengthen the spectrum of human rights organizations.

17. Infringements of human rights were not attributable only to acts of government; they were sometimes due to the irresponsible acts of other social forces. The media, trade unions and political parties required a great sense of responsibility.

18. The goal of the well-being of the individual in society, and the importance of the human dimension in all the endeavours of the international community, were of supreme importance. Collective actions aimed at ensuring protection of human rights should not be unduly constrained by arguments over national sovereignty; the mandates of human rights bodies should be enlarged along the lines of the equivalent institutions within the Council of Europe. Malta fully supported the outcome of the 1993 World Conference on Human Rights; its conclusions should be implemented in full, as the basic foundation for peace, security and prosperity world wide.

19. Cooperation between the Centre for Human Rights and other United Nations bodies should be further developed so as to maximize the use of resources. Malta fully supported the work of the High Commissioner for Human Rights, and

welcomed the many worthy initiatives taken during the past year. He trusted that it would eventually be possible to establish a world court for the protection of human rights; to do so would constitute a bold step in the universal implementation and enforcement of human rights. The instruments regulating such a body could be inspired by those which already governed the European Court of Human Rights in Strasbourg.

20. The Maltese Constitution entrenched and fully protected human rights and fundamental freedoms. Yet the mere letter of the law must be coupled with the political will to strengthen its provisions; that in turn needed to be nurtured by a human rights culture. In Malta, public sensitivity was maintained via the media and education at all levels. Malta had also been in the forefront in supporting action at the regional and international levels to secure the indivisibility, universality and full development of human rights.

21. Respect for human rights, part of the common heritage of mankind, required strengthening of already existing human rights instruments and coordination of the efforts of the various international bodies entrusted with safeguarding those rights. His delegation invited Member States to consider modifying the mandate of the Trusteeship Council, which would then hold that common heritage in trust for humanity.

22. The credibility of human rights was put to the test in times of economic, social and political upheaval. Dynamic and broadly shared economic growth, coupled with solidarity and subsidiarity, would strengthen democracy and human rights. In times of change, it was necessary to ensure that no individual or group found the right to life endangered by lack of food, employment, adequate health assistance and shelter. There could be no greater hypocrisy than living with human rights proclaimed on paper and disregarded in practice.

23. Mr. CHEW (Singapore) said that, although his delegation had accepted the recent inclusion in the agenda of the subject of capital punishment, it strongly opposed efforts by certain States to use the United Nations to impose their own values and system of justice on other countries. The death penalty was a necessary component of the administration of law and order in Singapore, and his delegation would not accept attempts to seek its abolition through decisions of the General Assembly.

24. The promotion of the convicted prisoner's human rights should be weighed against those of his victims and the rights of the community to live in peace and security. The draft resolution contained in the appendix to document A/49/234 was unbalanced, since the right to life of the victims of serious crimes had been ignored. Murderers, gangsters and drug syndicates had resorted to their own form of death penalty upon their hapless victims; the draft resolution failed to mention the suffering and loss of income resulting from such crimes. The international community should not ignore the rights of victims' families and the public at large. Furthermore, as was evident from the wording of the International Covenant on Civil and Political Rights, there was no universal consensus that capital punishment was contrary to international law.

25. States which opposed the death penalty on principle had the right to abolish or to refrain from using such punishment, but they should not seek to impose their values on others. The Government and people of each country must deal with law and order problems in their own way, taking into account their respective circumstances; there was no universal validity for one given approach. Furthermore, the abolition of the death penalty did not necessarily contribute to the advancement of human dignity. On the contrary, its retention in Singapore had served to preserve and safeguard the interests of society as a whole in the maintenance of law and order, which was an important precondition for the preservation of human dignity and the promotion and enjoyment of other human rights. Without it, the level of drug trafficking in his country, currently under firm control, would have reached epidemic proportions.

26. In Singapore, capital punishment was reserved for serious crimes, such as drug trafficking, certain arms offences, kidnapping for ransom, hijacking and murder, which gravely affected public safety and good order, and threatened the right to life of others. No sentence of death could be passed on an offender aged under 18 at the time of the offence, or on a woman if the court was satisfied that she was pregnant at the time of her conviction.

27. For those reasons, his delegation would vote against the draft resolution. He called upon all States whose legislation included capital punishment to do the same; they should not permit the advocates of abolition to overwhelm their views or to foist upon them their values and system of justice. For the same reason, he urged all other delegations to abstain.

28. Mr. HEJČ (Czech Republic) said that, during the period since the end of the Second World War, the United Nations had done a lot to introduce gradually the idea of human rights into international legal relations, thus substantially affecting the values and legal systems of individual Member States. The 1993 World Conference on Human Rights had, however, revealed weak points in the implementation of international human rights norms.

29. There was scope for criticism regarding the effectiveness of international human rights treaties and of the current non-contractual control mechanisms functioning within the framework of the United Nations. Periodic reports were a positive aspect of treaties, but the practice of control bodies led to considerable delays in discussing the contents of those treaties, the effectiveness of which consequently declined. It was necessary to strengthen the control functions of the United Nations and to enable fact-finding on the human rights situation in individual countries. The Czech Republic therefore welcomed the establishment of the office of the United Nations High Commissioner for Human Rights, and hoped that it would produce a fresh point of view, new approaches to the protection of human rights, and improved assistance to the victims of human rights violations.

30. The armed conflicts under way in a number of regions caused many human rights violations, and it was alarming how helpless the international community was to settle those conflicts, such as those in Rwanda, on the Indian-Pakistani border, in the former Yugoslavia, in Yemen and in the Transcaucasian republics.

The populations in many countries, including those in Europe, were scourged by various expressions of terrorism, and the people of numerous States suffered under military or paramilitary regimes. Such situations continued despite the existence of human rights treaties and norms of international humanitarian law. However small an armed conflict was, the international community had a duty to give it due attention, providing assistance and cooperation in the interest of finding a solution. He emphasized the importance, in that context, of the International Conference on the Protection of War Victims held in Geneva in 1993, and of the subsequently established group of governmental experts on humanitarian law.

31. His Government was preparing to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Capital punishment had in fact been abolished in the Czech Republic in 1990.

32. He expressed satisfaction at efforts by parties to a number of conflicts in various parts of the world, such as South Africa and the Middle East, to settle their differences to the satisfaction of both sides. Such progress was an example to be followed by others.

33. Ms. AL-HAMAMI (Yemen) said she objected to the assertion by the representative of the Czech Republic that the problem in her country was among those the United Nations had not resolved positively. She was convinced that the United Nations role had been most positive and did not think that her country's situation should be placed on a par with that of Rwanda and the former Yugoslavia.

34. Mr. RAZALI (Malaysia) said that the countries urging inclusion of the question of capital punishment in the agenda were trying, with good if misguided intentions, to impose an international consensus where there was none. In pressing for the abolition of capital punishment, they were sanctimoniously pressuring and passing unfair judgement on others that valued human life equally. Moreover, by pitting different religions and sets of values against one another, the draft resolution they wished to introduce would do the United Nations grave harm.

35. Some of the countries in question were being hypocritical, since they practised capital punishment by allowing soldiers to shoot to kill murderers or pillagers. Perhaps those among them that managed to apprehend only a small percentage of their killers were rationalizing their inability to stand up for their people as a commitment to an alleged principle of human rights.

36. Every State had the right to choose the penal system most appropriate to the needs of its society. In his country, it was used as a last resort after due process of law. His country's people believed in the sanctity of human life, and some in fact had problems with capital punishment. However, everyone recognized that the State must be able to impose that penalty in order to maintain its authority.

37. Mr. THOMPSON (Jamaica) said that the issue of capital punishment was one of great importance to Jamaica, where the death penalty was used in certain cases of murder. The decision as to whether capital punishment should exist was a prerogative of sovereign States; no blanket principle could apply, just as in individual cases where the court had to decide whether the death penalty was appropriate. His Government was responsible to the Jamaican people, and would be guided by the wishes of the overwhelming majority, who favoured capital punishment. His delegation would therefore vote against the draft resolution regarding the Second Optional Protocol to the International Covenant on Civil and Political Rights.

AGENDA ITEM 98: INTERNATIONAL DRUG CONTROL (continued)

Draft resolution A/C.3/49/L.13/Rev.1

38. Mr. FERNANDEZ PALACIOS (Cuba), speaking on behalf of the original sponsors and Belgium, France, India and Nicaragua, introduced draft resolution A/C.3/49/L.13/Rev.1 on international action to combat drug abuse and illicit production and trafficking. The text had been drafted on the basis of General Assembly resolutions 48/12 and 48/112, the results of the Economic and Social Council's 1994 coordination segment, and concerns expressed by various delegations. Like its predecessor, omnibus resolution 48/112, it was a step towards rationalizing the work of the Committee and reflected the priority assigned by all the Member States to international cooperation in the fight against drug abuse, production and illicit trafficking. The sponsors hoped that it would also be useful to the future work of the Commission on Narcotic Drugs and the United Nations International Drug Control Programme, and they invited the Committee to adopt it by consensus.

AGENDA ITEM 99: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued)

Draft resolution A/C.3/49/L.16

39. Ms. MURUGESAN (India), speaking on behalf of the sponsors - Bangladesh, India and the Russian Federation - introduced draft resolution A/C.3/49/L.16 on the enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees from 47 to 50 Member States. The sponsor countries, which had received and continued to receive refugees, had been supported by the Economic and Social Council for membership in the Executive Committee. They hoped that the Third Committee would endorse that support by adopting the draft resolution without a vote. Whatever the outcome of the Committee's deliberations, they would continue to endeavour to promote the cause of refugees.

Draft resolution A/C.3/49/L.17

40. Mr. SIDDIG (Sudan), speaking on behalf of the original sponsors and Morocco, introduced draft resolution A/C.3/49/L.17 on assistance to

unaccompanied refugee minors. Unaccompanied minors were among the most vulnerable refugees and required special attention. The draft resolution expressed deep concern at their plight and called for the mobilization of resources commensurate with their needs, especially reunification with their families. It requested all Governments, the Secretary-General, the United Nations High Commissioner for Refugees, the Department of Humanitarian Affairs, the United Nations Children's Fund and other United Nations agencies to mobilize adequate assistance to them with respect to relief, education, health and psychological rehabilitation, and asked the Secretary-General to report to the General Assembly at its fiftieth session on the implementation of the resolution.

41. He wished to make a number of oral amendments to the draft resolution. In the third preambular paragraph, the words "sectors of refugees who" should be replaced by "refugees and". The fifth preambular paragraph should read: "Noting with satisfaction that the Office of the United Nations High Commissioner for Refugees has developed revised guidelines on refugee children, issued in May 1994". In the sixth preambular paragraph, the words "in the" should be replaced by "to ensure" and the phrase "including refugee children and unaccompanied minors" should be added at the end. The seventh preambular paragraph should be replaced by the following: "Recalling the provisions concerning the protection of refugee minors of the Convention on the Rights of the Child and the 1951 Convention and 1967 Protocol relating to the Status of Refugees".

42. In paragraph 1, the word "location" should be replaced by "numbers and whereabouts". In paragraph 2, "all Governments" should be inserted after "Calls upon" and the phrase "to assist and protect refugee minors" should be added after "maximum effort". In addition, the words "in expediting" should be changed to "and expedite" and the phrase "in conformity with the relevant provisions of the Convention on the Rights of the Child" should be appended.

43. Paragraph 3 should be rewritten to read: "Requests the United Nations High Commissioner for Refugees and other United Nations concerned agencies to mobilize resources commensurate to the needs and interest of the unaccompanied refugee minors and for their reunification with their families."

44. In paragraph 4, the words "the acts" should be replaced by "all acts"; "as human shields" should be expanded to "and their use as human shields in armed conflict"; and "service" should be substituted for "insurgence". Paragraph 6 should be deleted and paragraph 7 renumbered accordingly.

45. He thanked all the delegations that had participated in the drafting of the text and expressed confidence that, because of the humanitarian nature and importance of the issue the Committee would adopt the draft resolution without a vote.

The meeting rose at 4.55 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

THIRD COMMITTEE
34th meeting
held on
Thursday, 17 November 1994
at 10 a.m.
New York

SUMMARY RECORD OF THE 34th MEETING

Chairman: Mr. CISSE (Senegal)

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AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued)

(c) CAPITAL PUNISHMENT (continued)

AGENDA ITEM 99: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued)

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The meeting was called to order at 10.35 a.m.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued) (A/49/57 and Corr.1, A/49/58, A/49/75-S/1994/180, A/49/182, A/49/206, A/49/220, A/49/221, A/49/265, A/49/271, A/49/282, A/49/283, A/49/286, A/49/287 and Corr.1-S/1994/894 and Corr.1, A/49/292, A/49/298, A/49/304, A/49/386, A/49/422, A/49/532, A/49/591)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/49/40, A/49/41, A/49/44, A/49/228-S/1994/827, A/49/261-E/1994/110, A/49/264-E/1994/113, A/49/364, A/49/405, A/49/408, A/49/409, A/49/426, A/49/484 and Add.1, A/49/537, A/49/642; A/C.3/49/5, A/C.3/49/6; E/1994/23)

(e) CAPITAL PUNISHMENT (continued) (A/49/234 and Add.1 and 2)

1. Ms. TOMKINSON (Australia) said that in acceding to the major international human rights instruments, Member States had committed themselves to the promotion and protection of those rights. That corpus of instruments, and the committees that monitored their implementation (treaty bodies) formed the cornerstone of international endeavours in that field. The system that had been put in place to ensure respect for human rights was one of the great successes of the United Nations, and must be made to work effectively.

2. However, there were problems in that system; they included overdue reports, overlapping competencies of different treaty bodies, the inadequate level of secretariat servicing to treaty bodies, and lack of media and public attention given to their deliberations. The report of the independent expert, Philip Alston, on approaches to enhancing the effective operation of bodies established under international instruments (A/CONF.157/PC/62/Add.11/Rev.1) gave a detailed analysis of the defects of the present system and suggested the basis of a realistic strategy for its improvement.

3. Priority should be given to that task in order to establish a constructive dialogue between States parties and the committees responsible for monitoring the implementation of human rights instruments. Moreover, the reporting burdens on States must be reasonable. She noted that the expert had proposed the development of a strategy to achieve universal ratification of the six core human rights instruments by the year 2000; reinforcement of the role of the treaty bodies in order to encourage national institutions to defend and increase respect for human rights; and the identification of incentives and disincentives to address the chronic situation of overdue reports. With regard to the last point, the expert had suggested that States be encouraged to adopt a system of cross-referencing in their reports and to designate specific bodies responsible for coordinating the presentation of reports to all the treaty bodies. He had also proposed, in the longer term, that the number of those bodies and the number of reports required should be reduced, if those States should be encouraged to submit a single report to all the relevant bodies and that periodic reports should be replaced by reports generated by a specific requirement.

4. Her delegation was convinced that those proposals would increase the ability of the system to monitor the implementation of international instruments. They would also alleviate the burden which the present system placed on States parties and the Centre for Human Rights. The proposals echoed the Vienna Declaration and Programme of Action, which called for the development of a system which would permit the international community and the citizens of States parties to monitor more effectively the implementation by Governments of their obligations under the major human rights instruments. She agreed with the independent expert that the urgency of the existing challenges must be recognized, that the vital importance of the treaty regime as a whole must be reaffirmed and that the quest for creative and effective solutions must be pursued with energy and commitment.

5. Mr. STEFANOV (Bulgaria) said that, for three decades, the system of international human rights instruments had provided a firm basis for the promotion and protection of human rights and fundamental freedoms. For that reason, universal adherence to international human rights treaties and other relevant instruments should be actively encouraged. In that respect, his delegation endorsed the recommendations contained in the Vienna Declaration and Programme of Action and in a number of resolutions of the General Assembly and of the Commission on Human Rights. He welcomed the substantial increase that had taken place over the last three years in the number of accessions to those instruments, in particular to the seven basic instruments. At the same time, States parties should be encouraged to review and withdraw the reservations they had made, since the latter were contradictory to the spirit of those texts. His delegation supported the recommendation adopted at Vienna, that the Secretary-General should hold consultations with those States which had not yet acceded to the international instruments, in order to ascertain what was preventing them from doing so.

6. Priority should be given to the promotion of existing instruments; new standards should be set only when there was broad consensus amongst Member States. The guidelines for new standard-setting contained in General Assembly resolution 41/120, were relevant. Recent positive developments in that respect were the working out of the Optional Protocol to the Convention against Torture and the forthcoming two optional protocols to the Convention on the Rights of the Child.

7. Being, as it was, firmly convinced that universal and unconditional recognition of international standards was essential to respect for human rights and fundamental freedoms, Bulgaria was party to the international covenants on human rights, to the Optional Protocol to the International Covenant on Civil and Political Rights, as well as to the other major human rights instruments. Article 5, paragraph 4 of the Bulgarian Constitution adopted in 1991 stipulated that international standards took precedence over the provisions of the national legislation. Any reservations which Bulgaria had had in the past had been withdrawn, and it recognized the compulsory jurisdiction of the International Court of Justice. Respect for the international obligations undertaken by the country were reflected in the ongoing process of adjustment of the national legislation.

8. His delegation recognized the importance of timely submission of reports for the efficient functioning of the monitoring machinery. Bulgaria was therefore making every effort to speed up submission of its own periodic reports some of which were overdue. The Bulgarian Government had recently submitted to the Secretariat its consolidated second and third periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

9. His delegation attached great importance to the effective functioning of the international human rights treaty bodies, which played a vital role in formulating and implementing human rights standards. It welcomed the improving coordination between those bodies and more particularly the institution of biannual meetings of their chairpersons. At the fifth such meeting, which had been held in Geneva in 1994, it had been determined that a number of innovative formulas, such as early warning and urgent procedures, must be adopted. Bulgaria was grateful to the Secretariat for the support it provided to the treaty bodies in that respect.

10. Referring to those bodies' funding, he commended the amendments made by the States parties and approved by the General Assembly concerning the funding of the Committee on the Elimination of Racial Discrimination and the Committee against Torture. He hoped that everything necessary would be done to ensure that those committees could meet as scheduled. He also emphasized the need to provide the Centre for Human Rights with the necessary human resources and technical facilities to service the treaty bodies.

11. In conclusion, he reiterated the importance Bulgaria attached to enhancing the human rights monitoring machinery and Bulgaria's intention actively to participate in the international community's efforts in that field.

12. Mrs. CALVERT (New Zealand) said that as a whole the human rights standards and machinery established by the United Nations provided a solid framework; it had recently been completed by the creation of the post of High Commissioner for Human Rights, which New Zealand supported. The establishment of that post had been highly beneficial, as was demonstrated by the action already carried out by the High Commissioner in response to the human rights situation in Rwanda and his efforts in other spheres. Her delegation continued to support the excellent work performed by the special rapporteurs, who played an essential role in investigating human rights abuses, making recommendations for action and promoting respect for human rights.

13. With regard to the rights of indigenous populations, New Zealand supported the preparation of a draft declaration which would afford appropriate protection to indigenous people and recognize their right to greater involvement in determining their economic and social destiny. In order for the views of the Maori and the wider New Zealand community on the draft Declaration to be canvassed, the Government of New Zealand had recently issued a discussion document, inviting the public to comment on the issue prior to the fifty-first session of the Commission on Human Rights. Although the draft Declaration, as it stood, posed some difficulties to her delegation, it was none the less

convinced that the adoption of a declaration recognizing the rights of indigenous populations would add another important element to the network of human rights instruments.

14. Referring to the Fourth World Conference on Women, which was to be held in Beijing in 1995, she underscored the importance of the preparatory work being done by the Commission on the Status of Women. Her delegation looked forward to the adoption, at that Conference, of a platform for action designed to advance the role of women.

15. New Zealand believed that the major work on standard-setting had already been accomplished. Priority should now be given to securing universal acceptance of existing human rights instruments and strengthening mechanisms responsible for implementing them. To do so, a continued dialogue was required with States that had not yet ratified the major human rights instruments in order to overcome the obstacles to their ratification. For many countries one such obstacle was the cost involved in fulfilling reporting obligations. Accordingly, New Zealand approved the efforts currently being made to reduce the cost and to improve the efficiency of the reporting system, which it regarded as fundamental. The system could undoubtedly be streamlined and rationalized by, in particular, adopting uniform terminology and practices. The recent report of the fifth meeting of persons chairing the human rights treaty bodies (A/49/537) contained valuable recommendations in that regard. New Zealand approved, in particular, the proposal that States should include disaggregated statistical data on the situation of women when reporting on each instrument. Lastly, the Centre for Human Rights was responsible for assisting States to fulfil their obligations in that area, by providing them with technical assistance and advisory services. To do so it must receive adequate resources. Currently, only 1 per cent of the total budget of the United Nations was allocated to human rights issues. That figure should be increased.

16. New Zealand was a party to all the major human rights instruments and actively participated in a number of working groups and commissions on that issue. It had supported and provided funding for the recent establishment, in Rwanda, of human rights monitors. It had also played a leading role in efforts to establish an international tribunal to prosecute persons alleged to have been involved in genocide and other serious breaches of international humanitarian law in Rwanda, as it had earlier supported the establishment of a tribunal to prosecute persons responsible for major human rights violations in the former Yugoslavia. A New Zealand police officer had been appointed to assist the latter tribunal in its investigations.

17. New Zealand was not only committed to fulfilling its reporting obligations, but also to making its reports publicly available in order to promote awareness of how the Government performed in meeting the obligations set forth in the human rights instruments. During the previous year, New Zealand had submitted its second periodic report to the Committee on the Elimination of Discrimination against Women and its initial report to the Committee on Economic, Social and Cultural Rights. It was currently preparing to submit its third periodic report to the Committee on Civil and Political Rights.

18. Her delegation believed that the international community should in the future give priority to the following objectives in the field of human rights: consolidation of the role of the High Commissioner for Human Rights; satisfactory completion of the consideration of the draft declaration on the rights of indigenous peoples; consideration of the potential repercussions of the forthcoming Fourth World Conference on Women on the operation of existing human rights instruments; increased resources for human rights treaty bodies; continued efforts to encourage accession to those instruments and to improve the system for submitting and considering reports by States parties.

19. Mr. CHIRINCIUC (Republic of Moldova) said that one of the serious problems which the international community had had to deal with since the end of the cold war was the issue of violations of human rights and fundamental freedoms. Unfortunately, human rights were an ideal rather than a reality, and promotion and protection of fundamental rights and freedoms was first and foremost the responsibility of each nation. The international community could advise States and urge them to fulfil their commitments, but it could not build for them the democratic society needed to safeguard full enjoyment of human rights and fundamental freedoms.

20. He underscored the importance of his country's integration into international political structures and of the development of its relations with democratic countries.

21. Since its proclamation of independence, the Republic of Moldova had made considerable efforts to mitigate the social consequences of its transition to a market economy, to establish the rule of law and to guarantee human rights and fundamental freedoms. Its Parliament had taken steps to ensure the State's accession to a number of international human rights instruments and had embarked upon a range of activities to establish national standards to ensure the promotion and effective observance of human rights as a whole and those of national minorities in particular.

22. In December 1989 the Republic of Moldova had adopted a languages act which accorded all minorities the right to use their own language. The citizenship act, adopted in June 1991, was one of the most liberal in the area of the former Soviet Union, for it granted Moldovan citizenship to all persons residing in Moldova at the time of the declaration of independence. A start had been made on standard-setting designed to guarantee the members of national minorities the right of free expression and free development of their ethnic, cultural, linguistic and religious identity. National minorities had the right to establish educational, cultural and religious organizations or associations. No law limited their access to any job, to the practice of their religion or to teaching in their mother tongue. The rule was respect for all cultures, languages and religions as long as they themselves respected human rights.

23. However, it was regrettable that the solution of a number of problems in the Republic of Moldova was directly linked to the settlement of the conflict in the eastern regions of the country. In the area controlled by the separatists people were victims of serious violations of human rights and fundamental

freedoms. Persons who did not support the secessionist policy were left jobless, and the Moldovans of the left bank of the Dniester, who made up 40 per cent of the region's population, had no possibility of teaching their children in their mother tongue. One graphic example was the illegal detention of the Ilascu group, about which the Moldovan Government had repeatedly informed the international community.

24. The new Constitution of the Republic of Moldova, adopted in August 1994 by the freely elected Parliament, devoted some 40 of its articles to "fundamental rights, freedoms and duties", including the rights of members of national minorities, and guaranteed full respect for those rights. The Constitution also stipulated the primacy of international law in the event of clashes with domestic legislation.

25. Pluralism, respect for human rights, the spirit of tolerance and the rejection of all forms of racial, religious or ethnic discrimination or other forms of discrimination such as anti-Semitism and xenophobia constituted firm commitments for the Republic of Moldova undertaken in the course of the consolidation of democracy.

26. Mrs. TOMIĆ (Slovenia) said that the question of the exercise of human rights required a global approach. It was particularly important for the largest possible number of countries to accede to the main international instruments, which must be applied in their entirety. Although some progress had been made in that direction, universal accession to the instruments and their comprehensive application remained priority goals. Slovenia welcomed the recent initiative by the Secretary-General to urge all States which had not yet acceded to the main human rights instruments to do so.

27. The Republic of Slovenia had acceded to all the main human rights instruments upon notification of its succession, which took effect on the day of its independence - 25 June 1991. It believed that every human rights instrument must be applied in its entirety; it urged States not to enter reservations and invited the ones which had done so to withdraw them. The system for the protection of human rights must be as comprehensive and coherent as possible. Slovenia also urged States to accede to the instruments providing for individual complaint procedures.

28. Full and effective compliance with international instruments was an essential component of an international order based on the rule of law. In that connection she attached the highest importance to periodic reporting by States parties and to the activities of special rapporteurs and working groups and bodies responsible for monitoring the application of human rights instruments.

29. States which had accepted obligations under such instruments must comply fully therewith. In particular, they must submit their reports on time. States which could not do so should seek the assistance of the Centre for Human Rights, which had established an advisory services programme for that purpose.

30. It was a matter for satisfaction that the monitoring bodies had continued to improve their methods of work in 1993. It was important for the committees which considered the reports of States parties to make proposals and recommendations on legislative and other steps which the States should take in order to apply each instrument more effectively. They should also continue, as far as their mandates allowed, to improve the measures designed to prevent human rights violations, such as early warning and urgent procedures.

31. Cooperation and coordination among various United Nations bodies were essential and must be strengthened. It would be particularly desirable for the High Commissioner for Human Rights to increase his collaboration with other United Nations bodies, in particular those responsible for monitoring the human rights instruments.

32. Although their workload had increased considerably, the monitoring bodies must be enabled to cope with their tasks. It was to be hoped that, in accordance with the recommendations of the Vienna Declaration and Programme of Action, sufficient resources would be made available to the Centre for Human Rights. It was also desirable for States parties to notify the Secretary-General promptly of their acceptance of the amendments concerning the funding of the bodies responsible for monitoring the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

33. The delegation of Slovenia had read with interest the report of the fifth meeting of the persons chairing the human rights treaty bodies (A/49/537). It endorsed their observation about the succession of States. The successor States to States formerly parties to human rights instruments must confirm their accession thereto by notifying the Secretary-General. It also thought that the human rights treaty system should continue to apply to successor States recognized as such but not to States which had ceased to exist.

34. The interdependence of human rights must be taken fully into account in their implementation. In that respect further efforts must be made to promote the enjoyment of economic, social and cultural rights and respect for the rights of members of national, ethnic, linguistic and religious minorities.

35. The United Nations should improve the operation of the human rights system through education, training and information activities. It was particularly important to provide training for all persons - teachers, senior officials and members of the police and the armed forces, etc. - whose activities affected human rights. Slovenia supported the proposal that the General Assembly should proclaim at the current session a decade for human rights education beginning on 1 January 1995.

36. Slovenia had been one of the few countries to support the inclusion of item 100 (e) in the agenda. Capital punishment was a particularly sensitive question. It was necessary to take into account not only its legal and moral aspects, but also the social realities which gave rise to it, the type of criminality in the countries concerned and public opinion.

37. In Slovenia, the death penalty had been last implemented in 1957. Capital punishment had been formally abolished by an amendment to the Constitution in 1989 and it was prohibited by the Constitution adopted in 1991 when Slovenia had attained independence. Slovenia had been one of the first countries to sign and ratify (in March 1994) the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. It had also signed the Sixth Protocol to the European Convention on Human Rights concerning the abolition of the death penalty.

38. Slovenia was convinced that the main arguments against capital punishment were valid, namely, that it was an irrevocable sentence and that, generally, its deterrent effect was virtually insignificant. His delegation believed that it was also incompatible with the protection of the basic human right to life. The Second Optional Protocol offered States an opportunity to engage in deliberations on the question and, at the appropriate time, to accede to the Protocol.

39. Mr. LINDGREN (Brazil) said that the process of acceding to international human rights instruments had started early in Brazil. Some instruments had yet to be ratified - including the new International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which should be accorded priority by all countries - but Brazil was a party to all those instruments which were the core of international human rights legislation. It had also withdrawn its reservations to the Convention on the Elimination of All Forms of Discrimination against Women. Brazil therefore welcomed the decision of the Secretary-General to address a personal letter to all Heads of State, inviting them to accede to, confirm their succession to or ratify all international human rights instruments to which they were not yet parties. It also welcomed the announcement by the High Commissioner for Human Rights that he intended to follow suit. It considered that the universal ratification of all international human rights instruments should be a primary goal of the United Nations and all its Member States.

40. His delegation was none the less aware of the gap between the formal act of ratification, which was an expression of a State's political will, and the full implementation of international instruments, which involved a whole set of specific circumstances and material difficulties which the sincerest of Governments was often unable to overcome. Human rights violations occurred even in the most developed societies. Therefore, Brazil strongly supported the recommendation formulated in paragraph 69 of the Vienna Programme of Action concerning the establishment, within the United Nations, of a comprehensive programme to help States in the task of building and strengthening national structures which had a direct impact on the overall observance of human rights and the maintenance of the rule of law. At the forty-eighth session of the General Assembly and at the most recent session of the Commission on Human Rights, it had been a sponsor of resolutions which supported that recommendation.

41. In that connection, his delegation wished to know the date on which the proposals by the Secretary-General, referred to in paragraph 70 of the Vienna

Programme of Action, in General Assembly resolution 48/132 and in resolution 1994/50 of the Commission on Human Rights, would be circulated and hoped that the Third Committee would devote the necessary attention to them.

42. His delegation endorsed the conclusions and recommendations contained in the report of the fifth meeting of persons chairing the human rights treaty bodies but believed that some of them required clarification. First, while human rights treaties were universal by nature, one could not say that they were universal "in application" as long as they were not ratified by all countries. Moreover, while his delegation understood that the chairpersons of human rights treaty bodies were interested in ways and means of preventing human rights violations, it recommended that those bodies should be careful not to exceed their mandates and not to impinge on the much broader mandate of the High Commissioner for Human Rights, as that might undermine the very foundations of international law. Lastly, his delegation opposed the idea that the human rights treaty bodies should unilaterally consider the human rights situation in States parties whose reports were considerably delayed. Those bodies would not only be clearly exceeding their mandates by following such a practice, but might also fail to take into account the difficulties faced by some "bona fide" Governments in submitting their reports or their efforts to reduce delays.

43. In that connection, he wished to announce that his Government would shortly submit the first report of Brazil to the Human Rights Committee and that the report to the Committee on the Elimination of Racial Discrimination and the report to the Committee on Economic, Social and Cultural Rights, which had been drafted in Portuguese, would be forwarded to the Centre for Human Rights at Geneva in the weeks to come. Those reports had been prepared in close cooperation with the academic community and they took into account the views and concerns of various organizations and non-governmental organizations. They thus reflected the degree to which Brazilian society was transparent and its democratic nature.

44. Mr. KLINKENBERG (Netherlands), speaking on behalf of his delegation and as a member of the Dutch Trade Union Movement, said that the unions could not play their vital role in ensuring economic and social justice when the rights enshrined by the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights were not respected, as was often the case. In many countries, there were no independent trade unions and for good reason: activists in favour of their establishment were harassed and imprisoned and strikes were forbidden. Very recently, the International Confederation of Free Trade Unions had noted, on the occasion of the Asia and Pacific Economic Cooperation Forum, that profound inequalities, exploitation of workers, anti-union repression and absence of democratic freedoms lurked behind the so-called economic miracle in many countries. The social situation in the world, far from improving, was rapidly deteriorating, both in countries which had long been industrialized and unionized and in developing countries with strong economic growth. Owing to technical progress, particularly in the area of electronic communications, which was witnessing the creation of the famous "information super-highways", transnational corporations had multiplied and prospered, thus strengthening their influence over

Governments and their control over their own workers. Long-term structural unemployment was thus finding its way into many countries. Unions must fight on two fronts at once: they must defend social and trade union rights and maintain active solidarity between workers and the unemployed. In that connection, he drew Committee members' attention to two particularly well-documented works: Survey of Violation of Trade Union Rights, which had been published in 1994 by the International Confederation of Free Trade Unions and Collection of Country Reports on Human Rights for 1993, also published in 1994 by the Department of State of the United States of America.

45. In one specific trade union sector, namely, the world of journalism and the media, two huge problems demanded attention. The first was that of the physical survival of journalists, which was under increasing threat: hundreds of journalists had been killed or murdered in recent years in various parts of the world by parties to armed conflicts or by organized gangs who wanted to prevent the investigation of their crimes. Professional organizations of journalists had begun to take measures, but they alone could not resolve the problem.

46. The second problem concerned the right to be freely informed about events in the world, independently of pressure groups and official censorship, a right which was more and more threatened. Indeed, the media were concentrated in the hands of an increasingly restricted group of public and private owners for whom information was first and foremost an economic product and not a social and cultural one. That situation was an attack on independent journalism and limited the public's ability to be informed with the help of objective and experienced professionals.

47. Mr. RAHMAN (Bangladesh), speaking on agenda item 100 (e), said that his delegation had been opposed to the inclusion of that item in the agenda of the forty-ninth session of the General Assembly and believed also that the item should be dealt with by the Sixth Committee rather than the Third Committee.

48. The position of Bangladesh on the subject of the death penalty was as follows: firstly, it was for States to choose the punishment for crimes committed within their jurisdiction. Secondly, the rules established by societies to ensure law and order were conditioned by the history, traditions and religious beliefs of those societies and could not therefore evolve independently of them. Thirdly, the debate on capital punishment was a continuous process, even in those countries in which the death penalty had been abolished. The international community should therefore not delude itself: it was a problem to which there was no easy solution. Fourthly, beliefs, traditions and social practices were peculiar to each State and each society and should not therefore become subject to value judgements. Fifthly, and lastly, the second Protocol to the International Covenant on Civil and Political Rights was supposedly optional, which meant that States had the flexibility to decide whether or not to accede to it. What purpose would it serve then to resuscitate the debate on that issue? The authors of the explanatory memorandum contained in document A/49/234 stated that "This initiative reflects the sentiments of the overwhelming majority of our peoples, who are firmly opposed to the imposition of the death penalty anywhere in the world". That statement invited the

following comment: that the countries of the authors of the above-mentioned explanatory memorandum should be in favour of the abolition of capital punishment was a matter for them. They should not, however, criticize those countries which chose to retain that punishment, since that could be construed as passing judgement and suggesting that they themselves were more humane or more just than others.

49. In the final analysis, Bangladesh placed as much value on the sanctity of life as any other State: capital punishment was invoked in that country only under exceptional circumstances, following procedures which offered every guarantee of justice. Those sentenced to death could appeal their sentences and ask for clemency. The retention of the death penalty generally took into account legitimate concerns. He hoped that those countries which had requested the inclusion of item 100 (e) in the agenda of the forty-ninth session of the General Assembly would take into account the sensitivities of all States and would recognize the need for close consultations in following up the matter.

50. Mr. NDABA (South Africa) said that his country, which had suffered greatly as a result of human rights abuses, had made the protection and advancement of human rights the cornerstone of its domestic policy. Racial discrimination was outlawed in South Africa. The Interim Constitution of South Africa, which had come into force after the April elections, was based on the internationally recognized principles of democracy and human rights. Those principles were entrenched in a Charter of Fundamental Rights, chapter III of which recognized, inter alia, the equality of all citizens before the law, the right to life and human dignity, the freedom and security of persons, freedom of expression, assembly and movement, and, of course, non-discrimination on any grounds whatsoever. South Africa, which was proud of those achievements, was determined to entrench in its society respect for a genuine culture of human rights. Already, a Constitutional Court had been created to guarantee the enforcement of the Constitution. Other institutions would be put in place. For example, the Constitution provided for a Public Protector whose role would be equivalent to that of an ombudsman, a human rights commission, a commission on gender equality and a commission on the restitution of land rights. At the same time, the South African Government had begun to implement an ambitious five-year reconstruction and development programme which was closely linked to human rights in so far as it concerned nation-building and democratization. Finally, under the current Constitution, the rules of international law were enforceable in South Africa. On 3 October 1994, the President of South Africa, Mr. Nelson Mandela, had signed in New York the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination; the three instruments were expected to be ratified within the following six months. Working groups had also been created to consider ways of expediting that procedure and to investigate the implications of ratification.

51. In order to inculcate a culture of democracy in the population, non-governmental organizations such as the Human Rights Institute of South Africa, which had been established in June 1993 by the Goldstone Commission, and the law faculties of various universities organized courses, lectures and

training workshops on the protection of human rights at all levels. While such courses were open to all, they were intended more particularly for personnel from the justice and police departments. In that connection, South Africa would welcome United Nations advisory and technical assistance. The South African Government indeed looked forward to the establishment of meaningful working relations with the United Nations in New York and the Centre for Human Rights at Geneva.

AGENDA ITEM 99: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued)

Introduction of draft resolution A/C.3/49/L.19

52. Mr. LAMPTEY (Ghana), introducing draft resolution L.19 on behalf of States Members of the United Nations that were members of the Group of African States, recalled that, despite the economic difficulties which most of them faced, African States continued to welcome on their soil a considerable number of refugees and displaced persons whose departure was due to natural disasters o to conflicts. In the draft resolution, the General Assembly expressed its appreciation to, among others, the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and to the many organizations which were helping to mitigate the plight of those refugees and appealed for continued financial assistance for refugee programmes.

53. A change had been made in the antepenultimate preambular paragraph, which began with the words "Convinced that, because of the serious, etc.". In the second line of that paragraph, the words "devastating and" should be deleted. Lastly, in the third line, the words "of hosting" should be replaced by the words "of having hosted ...".

54. Given the urgency of the matter, he hoped that draft resolution L.19 would be adopted by consensus.

The meeting rose at 12.15 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

THIRD COMMITTEE
35th meeting
held on
Thursday, 17 November 1994
at 3 p.m.
New York

SUMMARY RECORD OF THE 35th MEETING

Chairman: Mr. CISSÉ (Senegal)

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2 December 1994

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The meeting was called to order at 3.40 p.m.

AGENDA ITEM 93: ELIMINATION OF RACISM AND RACIAL DISCRIMINATION (continued) (A/C.3/49/L.8/Rev.1)

Draft resolution A/C.3/49/L.8/Rev.1

1. The CHAIRMAN invited the Committee to take action on draft resolution A/C.3/49/L.8/Rev.1 entitled "Third Decade to Combat Racism and Racial Discrimination".

2. Mr. REZVANI (Islamic Republic of Iran) said that, having further analysed the revised draft resolution, his delegation wished to add an amendment to those it had previously introduced. He accordingly proposed that the words "and the effects of restrictive immigration policies against them", which had originally appeared in paragraph 17 of the draft resolution, should be added after the word "families" in paragraph 6.

3. Mr. MUCH (Germany), speaking on behalf of the European Union, said he was distressed that a delegation should wish to interfere with the consensus on the draft resolution that was certain to be achieved thanks to the commendable efforts of the Group of African States, which had drafted it. He therefore rejected the proposed amendment.

4. Mr. ORDZHONIKIDZE (Russian Federation), supported by Mr. OULD MOHAMED LEMINE (Mauritania), Mr. LAMPTEY (Ghana) and Miss DIOP (Senegal) said that last-minute amendments should not be introduced when lengthy discussions with a view to reaching agreement had already been conducted. As the draft resolution addressed a vital issue, it was important that it should be adopted by consensus, particularly since it contained the Revised Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (1993-2003). He therefore appealed to the Iranian representative not to insist on his proposed amendment.

5. Mr. REZVANI (Islamic Republic of Iran) confessed surprise at the reaction to his modest amendment, which addressed a relevant concern and contained wording that had appeared in the original draft, and was not intended to disrupt the consensus adoption of that extremely important document. His country, however, had not been party to the relevant consultations, and its views could therefore only be expressed from the floor. Since, however, the draft resolution related to an entire decade, he believed that further work could be carried out the following year and therefore agreed to respond to the appeals made by withdrawing his amendment for the sake of consensus.

6. Draft resolution A/C.3/49/L.8.Rev.1 was adopted.

7. Mr. KUEHL (United States of America) affirmed that his country was pleased to join the consensus on combating racism and racial discrimination and noted with satisfaction that the draft resolution had no budget implications. As in

other United Nations programmes, the United States would seek to achieve savings in the Programme of Action adopted by the draft resolution with a view to enhancing the effectiveness of the United Nations.

AGENDA ITEM 94: RIGHT OF PEOPLES TO SELF-DETERMINATION (continued) (A/C.3/49/L.5/Rev.1)

Draft resolution A/C.3/49/L.5/Rev.1

8. The CHAIRMAN invited the Committee to take action on draft resolution A/C.3/49/L.5/Rev.1 entitled "The right of the Palestinian people to self-determination", which was now also sponsored by Bahrain and Kuwait. He also drew attention to the oral amendment introduced at an earlier meeting to paragraph 3 by replacing the words "extend their support to" by the words "continue to support".

9. Mr. ELDEEB (Egypt), whose delegation was the coordinator for the draft resolution, expressed gratitude on behalf of its sponsors to all delegations which had cooperated with a view to producing a consensus draft. He also announced that Guinea and the Lao People's Democratic Republic had joined the sponsors.

10. Mr. YAACOBI (Israel), speaking in explanation of vote before the voting, said that, despite the title of the draft resolution, the issue in question was not self-determination. It was commitment to the agreements signed by the Palestine Liberation organization (PLO) and his country, as well as to one of the principles underlying the peace process: direct negotiation without preconditions. That principle had paved the way for the Declaration of Principles on Interim Self-Government, in which the two parties had agreed to negotiate the issues relating to permanent status at a later stage. Yet the draft resolution prepared by the PLO was intended to predetermine the outcome of those permanent-status talks. His country would therefore vote against it, and it urged all Member States that supported the peace process to do the same.

11. Mr. BIØRN LIAN (Norway) said that his country supported the right of the Palestinian people to self-determination. However, according to the Declaration of Principles signed by the PLO and Israel, the final status of the Palestinian territories was to be decided by negotiations between them, and the General Assembly should be careful not to interfere. His country would therefore abstain in the vote.

12. Mr. KUEHL (United States of America) said that his country would vote against draft resolution A/C.3/49/L.5/Rev.1. The United States was profoundly committed to the achievement of a just and lasting peace in the Middle East and to the current negotiations, which it was sponsoring together with the Russian Federation. The encouraging progress already achieved, including agreements between the PLO and Israel, held the clear promise of continuing, despite unrelenting efforts from the enemies of peace to derail the entire process.

13. Given that the international community should do its utmost to promote and support that historic enterprise, the United Nations should not adopt controversial positions on issues that were supported by only one party to the peace negotiations, the outcome of which draft resolution A/C.3/49/L.5/Rev.1 could undermine. The Committee's efforts should not, therefore, be directed towards resolutions that would have a polarizing and divisive effect.

14. Mr. ORDZHONIKIDZE (Russian Federation) supported the right of the Palestinian people to self-determination and that of Israel to peaceful coexistence. As a sponsor of the Middle East peace process, his country based its position on the view that the future of the Palestinians should be decided in the context of the bilateral talks between Israel and Palestine. Believing that attempts to influence the character of those talks would complicate matters, his delegation would abstain in the vote.

15. A recorded vote was taken.

In favour: Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, China, Colombia, Comoros, Congo, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, Germany, Ghana, Greece, Guinea, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Romania, Saint Kitts and Nevis, Samoa, San Marino, Saudi Arabia, Senegal, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Israel, United States of America.

Abstaining: Argentina, Cameroon, Costa Rica, Eritrea, Estonia, Fiji, Georgia, Guatemala, Iceland, Kenya, Kyrgyzstan, Latvia, Lithuania, Malawi, Marshall Islands, Micronesia (Federated States of), Norway, Panama, Peru, Republic of Korea, Republic of Moldova, Russian Federation, Rwanda, South Africa, Swaziland, Uruguay, Uzbekistan.

16. Draft resolution was adopted by 124 votes to 2, with 27 abstentions.

17. Mr. HAMIDA (Libyan Arab Jamahiriya) said that he had voted in favour of the draft resolution in view of his country's full and constant support of the right of the Palestinian people to self-determination. That vote, however, did not signal its recognition of the so-called "State of Israel". He wished to place on record his reservation concerning the references to the Middle East peace process; a just and lasting peace in the Middle East would be achieved only with the establishment of a democratic Palestinian State where all races and religions coexisted as they now did in South Africa.

18. Mr. NIETO (Argentina) said that his delegation had abstained in the vote because it had not wanted to participate in taking a decision that might in any way affect the ongoing peace negotiations between the PLO and Israel. That vote should not be interpreted as favouring in any way the rights of one of the parties to the detriment of those of the other.

19. Mr. COLOMA (Chile) said that his delegation had voted in favour of the draft resolution and hoped that its adoption would not adversely affect the ongoing peace negotiations. Chile would continue to support the peace process in the Middle East.

20. Mr. CRAPATUREANU (Romania) said that his country had consistently supported the peace process in the Middle East and welcomed the positive developments in that regard. In voting in favour of the draft resolution, Romania had taken into consideration two basic elements reflected in the text: the principle of self-determination and the right of all States in the region to live within secure and internationally recognized borders.

21. Ms. BUCK (Canada) said that her country had voted in favour of the draft resolution because of its support for the right of the Palestinian people to self-determination within the framework of the peace negotiations. Although Canada did not specifically advocate the establishment of a sovereign Palestinian State, it would not oppose it, if the peace process led to that result. Care must be taken to avoid prejudicing the outcome of the current peace negotiations.

22. Ms. HERNANDEZ VALVERDE (Costa Rica) said that, although her delegation supported unreservedly the right of the Palestinian people to self-determination, it had abstained in the vote because it believed that the adoption of the draft resolution under consideration would impede the ongoing peace process in the Middle East. She hoped that that process would continue and lead to lasting peace for all States in the region.

23. Mr. WENAWESER (Liechtenstein) said that his delegation had voted in favour of the draft resolution on the understanding that paragraph 2 did not run counter to General Assembly resolutions which provided that forms of political status other than independence might be comprised within the right to self-determination, if the peoples concerned expressed themselves in favour of such other forms.

24. Mr. AL-KIDWA (Observer for Palestine) expressed satisfaction at the adoption of the draft resolution by an absolute majority. The right of all peoples to self-determination was a recognized principle of international law and the Palestinian people had long fought to exercise that right. Genuine support for the peace process meant that the right of the Palestinian people to self-determination must be supported because there would be no just and lasting peace in he Middle East unless the Palestinian people were able to exercise that right fully. Contrary to what some delegations claimed, there was no contradiction in that regard.

25. The votes cast by the United States and Israel had shocked his delegation. Their attitude was reminiscent of the atmosphere that had prevailed before the peace process had begun. He had hoped that the results of the vote would be different because of what had been achieved in the peace process. It was incomprehensible how it was possible to recognize the existence of the Palestinian people, on the one hand, and deny its right to self-determination, on the other. The peace negotiations must be conducted in accordance with international law and the United Nations Charter. The position of the friendly countries that had not voted in favour of the draft resolution was surprising. The results of the vote would be carefully studied by the Palestinian leadership in order to draw the necessary conclusions for the peace process in the region. Lastly, he hoped that the current session of the General Assembly would lead to more positive developments in order to further that process.

26. Mr. MUCH (Germany), speaking on behalf of the European Union and Austria, Finland and Sweden, said that the delegations for which he spoke had voted in favour of the draft resolution. They warmly welcomed the progress already achieved in the Middle East peace process and encouraged the parties to continue to negotiate in a constructive spirit in order to reach agreement on the permanent status of the territories. He hoped that the adoption of the draft resolution would be part of a new approach towards resolutions on the Middle East, and he attached the greatest importance to the declared intention of the main sponsors of the draft resolution that it should not be seen as predetermining the outcome of the negotiations on the permanent status of the territories.

27. The European Union continued to support the right of the Palestinian people to self-determination and had long held the position that the exercise of that right was an ongoing process and could be implemented in a variety of ways. He welcomed the fact that the Palestinian people, in exercising its right to self-determination, had chosen the path of negotiation. The European Union would support that process through specific measures in the economic, administrative and electoral fields. Reaffirmation of the right of the Palestinian people to self-determination went hand in hand with reaffirmation of the right of all countries in the region, including Israel, to live in peace within secure and internationally recognized borders. He welcomed the fact that both elements were reflected in the draft resolution.

28. Ms. FERTEKLIGIL (Turkey) said that her country, which had always consistently supported the right of the Palestinian people to self-

determination, had voted in favour of the draft resolution. She stressed that all States in the region, including Israel, had the right to live in peace within secure and internationally recognized borders and said that Turkey would continue to support the efforts to bring about a comprehensive and lasting peace in the region.

29. Mr. REZVANI (Islamic Republic of Iran) said that his delegation had voted in favour of the draft resolution, but had strong reservations about the last preambular paragraph and paragraph 2. He did not believe that the recent agreements would restore the inalienable rights of the Palestinian people and therefore wished to dissociate himself from those paragraphs.

30. Mr. USUI (Japan) said that, although his delegation had voted in favour of the draft resolution, it felt that adopting such a resolution, which urged the international community to support only one party in the peace process, was not a useful contribution to that effort. The permanent status of the occupied territories must be determined by the parties themselves through negotiations.

31. Mr. ALI (Iraq) said that his delegation supported all the rights of the Palestinian people, including the right to self-determination by establishing its own State in the occupied territories, with Jerusalem as its capital. Iraq had voted in favour of the draft resolution, but had reservations about the third preambular paragraph and paragraph 2.

32. Mr. DEKANY (Hungary) said that his delegation had voted in favour of the draft resolution. Paragraph 3 of the draft resolution, however, should not be interpreted as a departure from the current political framework of the peace process. The draft resolution as a whole should be viewed in the context of the right of all States in the region to live in peace within secure and internationally recognized borders, as stated in its third preambular paragraph.

Draft resolution A/C.3/49/L.6*

33. The CHAIRMAN invited the Committee to take up draft resolution A/C.3/49/L.6,* on the use of mercenaries, and said that Algeria, Egypt, Ghana and Malaysia had joined the sponsors.

34. Ms. NEWELL (Secretary of the Committee) said the draft resolution had been revised in several places. In paragraph 3, the phrase "or threaten the territorial integrity of any sovereign State" should be inserted in the penultimate line after the words "any State". In paragraph 6, the phrase "within existing resources, working meetings to analyse and consider" should be inserted after the words "and to consider" in the fourth line. In paragraph 7, the phrase "with specific recommendations" should be inserted after the words "to report" in the first line.

35. Mr. MATESIĆ (Croatia), speaking in explanation of vote before the vote, said that his delegation opposed the use of mercenaries to violate human rights and impede the exercise of the right of peoples to self-determination, particularly since his country had been the victim of mercenaries recruited,

financed and trained by Serbia and Montenegro in order to impede the exercise of the right of the citizens of Croatia to self-determination. In that connection, the report of the Special Rapporteur on the use of mercenaries (A/49/362) did not deal with the issue of mercenaries in the region in the proper manner. The report uncritically presented unsubstantiated charges by the Belgrade authorities, which should have been carefully examined before being given a degree of legitimacy by being published in such a report. Independent investigation was the proper way to address such issues.

36. During the barbaric aggression launched by Serbian forces against Croatia, a number of foreign nationals had come as volunteers to assist in the defence of Croatia. Most of those individuals were of Croatian origin and had come to defend the homes where they or their parents had been born and to protect family members from the bloody fate that had been planned for them. Those individuals had come before the establishment of the Croatian Army and were no longer involved in the defence of Croatia. They could in no way be considered mercenaries, since they had come to protect the human rights of Croat citizens, including the most basic human right, the right to life. Accordingly, while supporting the general thrust of draft resolution A/C.3/49/L.6,* Croatia would not be able to vote in favour of that document.

37. Mr. KUEHL (United States of America) said that his delegation would join others in voting against draft resolution A/C.3/49/L.6.* Although his Government remained opposed to the recruitment and use of mercenary forces around the world, that draft resolution was not the way to address the problem. Attempts to connect the question of mercenaries with drug traffickers diluted vitally important anti-narcotics efforts. The time spent on those issues could be better devoted to more pressing human rights problems. Furthermore, the draft resolution stretched the definition of mercenaries far beyond the terms of that set forth in Additional Protocol I to the Geneva Conventions of 1949.

38. The activities of mercenaries, while criminal in many ways, did not fit the definition of human rights violations committed by Governments. In addition, his delegation did not believe that the Special Rapporteur on the use of mercenaries had made a case for continuing the consideration of that question under the rubric of human rights. The Special Rapporteur had exhausted the study of mercenaries and, in the interest of rationalizing the human rights agenda, his mandate should not be extended when it expired. If the Special Rapporteur continued his work, however, he should take into account the definition of mercenaries contained in the Additional Protocol referred to and should employ more stringent standards when reporting accusations and "rumours" of mercenary activities.

39. A recorded vote was taken.

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa

Rica, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Eritrea, Ethiopia, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Republic of Moldova, Russian Federation, Saint Kitts and Nevis, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Arab Emirates, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Austria, Belgium, Canada, Denmark, Finland, France, Georgia, Germany, Hungary, Iceland, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Albania, Andorra, Argentina, Armenia, Australia, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Fiji, Greece, Ireland, Israel, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Malta, Marshall Islands, Micronesia (Federated States of), New Zealand, Poland, Republic of Korea, Romania, Rwanda, Samoa, Slovakia, Slovenia, Spain, the former Yugoslav Republic of Macedonia, Turkey, Uruguay.

40. Draft resolution A/C.3/49/L.6* was adopted by 101 votes to 19, with 34 abstentions.

41. Mr. MUCH (Germany), speaking in explanation of vote on behalf of the European Union as well as Austria, Finland, Norway and Sweden, said that the European Union condemned unequivocally the recruitment, use or financing of mercenaries and well understood the concerns, particularly of African countries, which had led to the submission of the draft resolution. Nevertheless, it was regrettable that the report of the Special Rapporteur (A/49/362) contained several considerations that were conceptually mistaken or extraneous to his mandate. Furthermore, the European Union could not associate itself with the request in paragraph 6 of the draft resolution that the Centre for Human Rights should devote, as a matter of priority, more effort to the question of mercenary activities, particularly at a time when available resources for more pressing human rights activities were extremely scarce. For those reasons, the European Union had been unable to support draft resolution A/C.3/49/L.6.*

42. Mr. USUI (Japan) said that his delegation had voted against the draft resolution. While Japan did not employ mercenaries or send mercenaries to other countries, it had some reservations about taking up the issue in the context of self-determination.

43. Mr. VAUGHN-FENN (United Kingdom) said that his delegation's decision to call a vote on the draft resolution should in no way be taken to mean that his Government underestimated the sponsors' real concern regarding mercenary activities. The United Kingdom shared those concerns, but did not believe that mercenary activities should be combated primarily as a human rights issue. There were human rights aspects to the problem, but not such as to constitute a coherent mandate for a Special Rapporteur. His delegation considered that the report of the Special Rapporteur on the use of mercenaries (A/49/362) amply illustrated that he was proceeding on the basis of a flawed mandate. The report made no practical contribution to addressing the real problems regarding the use of mercenaries. Such problems should instead be addressed by such means as international cooperation against crime, and the resources currently expended on that mandate should be redeployed to the numerous areas of higher priority within the human rights budget.

44. Mrs. PILOTO (Zimbabwe) said that her delegation would have wished to join the sponsors of the draft resolution.

45. Ms. TOMKINSON (Australia) said that her Government firmly opposed the use of mercenaries, which it considered unlawful, and was currently considering ratification of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. Her delegation had, however, abstained in the vote on the draft resolution, believing that much of the subject-matter addressed by the Special Rapporteur was already appropriately considered elsewhere in the United Nations, and that recent developments in Africa and Central America had reduced the human rights relevance of the problem of mercenaries.

46. Mr. OTUYELU (Nigeria), speaking on behalf of the sponsors, apologized for having omitted to mention before the vote that the Zimbabwean delegation wished to become a sponsor of the draft resolution. He welcomed the recognition by other delegations of the illegality of the use of mercenaries. That illegality had human rights implications, and that in turn was the whole purpose of the draft resolution. The need to optimize the use of resources was well recognized. It was not the intention of the sponsors to waste resources on unnecessary items; their shared concerns regarding mercenary activities should be seen in the proper context. He welcomed the remarks of those who shared those concerns, and suggested that efforts should be made to make the Special Rapporteur's work more effective. It was for the Committee to decide whether his mandate should continue.

47. Mr. VOLSKI (Georgia) said that his delegation had voted against the draft resolution. Georgia had a positive attitude to the inalienable right of peoples to self-determination, and was categorically opposed to the use of mercenaries. However, events in his country had shown that people who called themselves fighters for self-determination sometimes used mercenaries who showed examples of unheard-of cruelty; for that reason, the draft resolution was inappropriate.

48. Ms. MURUGESAN (India) said that her delegation, as one of the sponsors of the draft resolution, wished to emphasize that mercenary activity was not confined to Africa and Latin America.

Draft resolution A/C.3/49/L.7/Rev.1

49. A recorded vote was taken.

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Armenia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Democratic People's Republic of Korea, Ecuador, Egypt, Eritrea, Ethiopia, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Rwanda, Saint Kitts and Nevis, Samoa, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: France, Israel, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Albania, Andorra, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Fiji, Finland, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, Uruguay, Uzbekistan.

50. Draft resolution A/C.3/49/L.7/Rev.1 was adopted by 101 votes to 4, with 49 abstentions.

AGENDA ITEM 95: SOCIAL DEVELOPMENT, INCLUDING QUESTIONS RELATING TO THE WORLD SOCIAL SITUATION AND TO YOUTH, AGEING, DISABLED PERSONS AND THE FAMILY (continued) (A/C.3/49/L.9/Rev.1, L.10/Rev.1, L.11 and L.12)

Draft resolution A/C.3/49/L.9/Rev.1

51. The CHAIRMAN invited the Committee to take up draft resolutions A/C.3/49/L.9/Rev.1, on International Youth Year; A/C.3/49/L.10/Rev.1, on persons with disabilities; A/C.3/49/L.11, on youth; and A/C.3/49/L.12, on cooperatives.

52. Mr. SUTOYO (Indonesia), speaking on behalf of the sponsors, announced that the Russian Federation had also become a sponsor of the draft resolution.

53. He said that, further to consultations and with a view to reaching consensus on the text, that paragraph 3 of the draft resolution should be revised by replacing the word "four" by "up to four" and by replacing the words "to adopt" by the words "to consider, with a view to adopting,". Consequently, the word "four" in the first line of paragraph 4 should be deleted. On behalf of the Movement of Non-Aligned Countries, he commended the draft resolution for adoption by consensus.

54. Mr. AQUARONE (Netherlands), Ms. FENG Cui (China), and Mr. MINOVES-TRIQUELL (Andorra) announced that their delegations wished to join the sponsors of the draft resolution.

55. Draft resolution A/C.3/49/L.9/Rev.1, as orally revised, was adopted.

56. Mr. MUCH (Germany), speaking on behalf of the European Union, and supported by Ms. FURUYA (Japan) and Mr. KUEHL (United States of America), said that the delegations concerned had joined the consensus on the draft resolution because they supported the idea of commemorating the tenth anniversary of the International Youth Year, and welcomed the revisions that had been made to the text. However, the draft world programme of action for youth would have to be discussed in the Commission for Social Development and in the Economic and Social Council. It would therefore be premature to urge the Secretary-General to take certain actions regarding the implementation of a programme which had not yet been adopted.

Draft resolution A/C.3/49/L.10/Rev.1

57. Ms. RAMIRO-LOPEZ (Philippines), speaking on behalf of the sponsors, announced that Azerbaijan, Greece and the Russian Federation had also become sponsors of the draft resolution.

58. Mr. MINOVES-TRIQUELL (Andorra), Mrs. LOPES da ROSA (Guinea-Bissau) and Mr. TESSEMA (Ethiopia) announced that their delegations, too, wished to join the sponsors.

59. Draft resolution A/C.3/49/L.10/Rev.1, as orally revised, was adopted.

Draft resolution A/C.3/49/L.11

60. Mr. AQUARONE (Netherlands), speaking on behalf of the sponsors, announced that Andorra, Armenia, Nicaragua, the Philippines, the Russian Federation and Singapore had also become sponsors of the draft resolution.

61. Ms. FERTEKLIGIL (Turkey), Mrs. LOPES da ROSA (Guinea-Bissau), Ms. ENKHTSETSEG (Mongolia), Mr. PACE (Malta), Mr. SUTOYO (Indonesia), Mr. VENTEGODT (Denmark), Mr. OTUYELU (Nigeria), Miss DIOP (Senegal), Mr. PALIHAKKARA (Sri Lanka) and Mrs. AKHAMLICH BENNANI (Morocco) said that they, too, wished to join the sponsors.

62. Draft resolution A/C.3/49/L.11 was adopted.

Draft resolution A/C.3/49/L.12

63. The CHAIRMAN said that Benin, Ecuador, Estonia, Guinea-Bissau, the Lao People's Democratic Republic, Kenya, Nepal, Nicaragua, Nigeria, Papua New Guinea, the Philippines, the Russian Federation, Senegal and the United Republic of Tanzania had asked to be added to the list of sponsors.

64. Mr. STREJCZEK (Poland), Ms. MURUGESAN (India), Mr. REZVANI (Islamic Republic of Iran), Mr. SIDDIG (Sudan), Mr. ZAQUEU (Mozambique) and Mr. BUBALA (Zambia) said that they also wished to join the sponsors.

65. Ms. ENKHTSETSEG (Mongolia), speaking on behalf of the sponsors, said that the Dominican Republic, Rwanda and Turkmenistan also wished to sponsor the draft resolution. She added that the following revisions should be made: in paragraph 2, the word "Decides" should be replaced by the phrase "Invites Governments, relevant international organizations and specialized agencies, national and international cooperative organizations"; and in paragraph 7, the words "to maintain and increase the support provided by the United Nations" should be replaced by "to continue to provide support".

66. Draft resolution A/C.3/49/L.12, as orally revised, was adopted.

67. The CHAIRMAN suggested that the Committee should take note of the reports of the Preparatory Committee for the World Summit for Social Development, contained in documents A/49/24 and Add.1.

68. It was so decided.

69. The CHAIRMAN said that the Committee had thereby concluded its consideration of agenda item 95.

AGENDA ITEM 99: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued) (A/C.3/49/L.14)

Draft resolution A/C.3/49/L.14

70. Mr. KASTBERG (Sweden), speaking on behalf of the sponsors, said that Andorra, Belgium, Brazil, Burundi, Canada, Cape Verde, Cyprus, Colombia, Guinea-Bissau, Guyana, New Zealand, the Niger, the Republic of Moldova and the Russian Federation had asked to be added to the list of sponsors of draft resolution A/C.3/49/L.14, entitled "Office of the United Nations High Commissioner for Refugees". He thanked all those who had worked with his delegation in preparing the text.

71. Mr. ELDEEB (Egypt), Mr. ADECHI (Benin) and Mr. PACE (Malta) said that they also wished to be added to the list of sponsors.

72. Draft resolution A/C.3/49/L.14 was adopted.

The meeting rose at 5.50 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

THIRD COMMITTEE
36th meeting
held on
Monday, 21 November 1994
at 10 a.m.
New York

SUMMARY RECORD OF THE 36th MEETING

Chairman: Mr. CISSE (Senegal)

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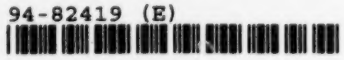

The meeting was called to order at 10.30 a.m.

AGENDA ITEM 101: PROMOTION AND PROTECTION OF THE RIGHTS OF CHILDREN (continued) (A/C.3/49/L.21, L.22, L.23, L.24)

Draft resolutions A/C.3/49/L.21: Protection of children affected by armed conflicts; A/C.3/49/L.22: Need to adopt efficient international measures for the prevention and eradication of the sale of children, child prostitution and child pornography, and A/C.3/49/L.24: The plight of street children

1. The CHAIRMAN said that, since the sponsors of draft resolutions L.21, L.22 and L.24 were not ready to introduce their texts, the latter would be introduced on 23 November 1994, and the Committee would take action on them on 25 November 1994.

Draft resolution A/C.3/49/L.23: Implementation of the Convention on the Rights of the Child

2. Ms. STRÖM (Sweden), introducing draft resolution A/C.3/49/L.23 on behalf of the sponsors, said that the latter now included Costa Rica, Honduras, Hungary, Ireland, Latvia, Lithuania, Mali, Nigeria, Portugal, the Russian Federation, Senegal, Uruguay, Viet Nam and Zambia. She emphasized the importance of not only universal adherence to the Convention, but also its complete implementation by all States. Article 51 of the Convention prohibited any reservations that were incompatible with the object and purpose of the Convention; under international law States parties which had made reservations could not refer to internal law in order not to perform their treaty obligations. After emphasizing some of the main provisions of the text, she expressed the hope that the draft resolution would, as in previous years, be adopted by consensus.

AGENDA ITEM 102: PREPARATION FOR AND ORGANIZATION OF THE UNITED NATIONS YEAR FOR TOLERANCE (continued) (A/C.3/49/L.20)

Draft resolution A/C.3/49/L.20: United Nations Year for Tolerance

3. Mr. BATU (Turkey), on behalf of the sponsors, introduced draft resolution A/C.3/49/L.20 concerning the United Nations Year for Tolerance which had been proclaimed by the General Assembly (resolution 48/126) following the initiative of the United Nations Educational, Scientific and Cultural Organization at the twenty-sixth session of the General Conference.

4. Although the cold war was over, intolerance - discrimination, sexism, racism, xenophobia - continued to fuel numerous conflicts. Tolerance was needed everywhere, yet it was far from being a universal reality.

5. Humankind needed not only political programmes and action, but also new hopes, goals, ideals and standards to enable human beings to live in peace, regardless of their ethnic origin and religion, and to aspire to a better future. That was precisely what the United Nations Year for Tolerance could

bring. In the context of the activities organized for the Year for Tolerance, Turkey, along with UNESCO, would host an international gathering in Istanbul in 1995. He hoped that the draft resolution would be adopted by consensus.

AGENDA ITEM 103: PROGRAMME OF ACTIVITIES OF THE INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE (continued) (A/C.3/49/L.25)

Draft decision A/C.3/49/L.25: United Nations Voluntary Fund for Indigenous Populations

6. Mr. TELLMANN (Norway) introduced draft decision A/C.3/49/L.25 on behalf of the sponsors, who now included Australia and New Zealand, and expressed the hope that it would be adopted by consensus.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued) (A/49/57 and Corr.1, A/49/58, A/49/75-S/1994/180, A/49/182, 206, 220, 221, 265, 271, 282, 283, 286, A/49/287-S/1994/894 and Corr.1, A/49/292, 298, 304, 386, 422, 532, 591; A/C.3/49/19)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/49/40, 41, 44, A/49/228-S/1994/827, A/49/261-E/1994/110, A/49/264-E/1994/113, A/49/364, 405, 408, 409, 426, 484 and Add.1, 537 and 642; A/C.3/49/5 and 6; E/1994/23)

(e) CAPITAL PUNISHMENT (continued) (A/49/234 and Add.1 and 2)

7. Mr. MUCH (Germany) speaking on agenda item 100 (e), recalled that various United Nations instruments and decisions established standards restricting the application of capital punishment. Its abolition was encouraged by the second Optional Protocol to the International Covenant on Civil and Political Rights, and the decisions of the World Conference on Human Rights also invited States which had not yet done so to accede to and ratify the international instruments; however, in such a serious matter, thorough debate was called for.

8. The States belonging to the European Union did not apply the death penalty. There were many States around the world which did not use it, or which reserved its application for certain exceptional cases such as war crimes. Nevertheless, a large number of States still carried out the death penalty.

9. Proponents of the death penalty argued that it had a deterrent effect. However, research showed that it had no such effect, and that crime rates were virtually identical in countries where it had been abolished and in those where it was still applied. In any event, the concept of deterrence did not give States licence to administer justice by whatever means.

10. Supporters of capital punishment also argued that it was justified by the concept of retribution; but many States, including the members of the European Union, favoured rehabilitation, considering that it was more important to save the offender than to punish him.

11. Throughout its history, humankind had pondered the fundamental questions about life and death. Understanding of those questions was as limited in the countries of the European Union as anywhere else.

12. The approach taken by the United Nations to the issue of the death penalty was also based on an awareness of the fallibility of human judgement. The law, whether divine or man-made, was always carried out by human beings, whose errors were sometimes irreparable. It was for that reason that the United Nations supported the defence of the right to life (article 3 of the Universal Declaration of Human Rights and article 6, paragraph 1 of the International Covenant on Civil and Political Rights); called for the restriction of the death penalty to the most serious crimes and prohibited its imposition on persons under the age of 18, pregnant women, new mothers and the insane (article 6, paras. 2 and 5 of the International Covenant; article 37, para. (a) of the Convention on the Rights of the Child; and resolution 1984/50 of the Economic and Social Council); and established safeguards (particularly in article 6 of the International Covenant and Economic and Social Council resolution 1984/50 and the annex thereto).

13. The European Union welcomed the framework established by those instruments and called for their full implementation by all States concerned. It strongly endorsed the view that capital punishment, where it had not yet been abolished, should be limited to the most serious crimes, that the persons referred to in the above-mentioned documents should be exempt and that it should only be imposed for crimes that were punishable by the death penalty under the law at the time when they were committed. The European Union was also concerned about situations where the death penalty was applied in a generalized way, on the basis of political or religious beliefs, race or gender, or as a form of revenge. It attached great importance to observance of established safeguards, including the right to legal assistance and to be judged publicly before a competent court, the right to appeal and the right to seek a pardon or commutation of one's sentence. It therefore urged all States concerned, in keeping with the decisions of the Vienna World Conference on Human Rights, to consider ratifying or acceding to the pertinent human rights instruments and to review any reservations contrary to those instruments, with a view to withdrawing them.

14. The main purpose of the draft resolution contained in document A/49/234 was to promote further reflection on the highly complex and delicate question of capital punishment. The text did not contain new standards, but rather summarized existing ones and posed the challenge of confronting them. While looking ahead, the draft resolution, in paragraph 4, suggested that the status quo of persons currently on death row should be preserved.

15. The European Union hoped that Member States would contribute, through their positions on the draft resolution, to a constructive debate on the issue.

16. Mr. SEYDOU (Niger), speaking on agenda item 100 (a), said that, on the eve of the fiftieth anniversary of the United Nations, it must be said that although clear progress had been made in the codification of human rights, much still

remained to be done to ensure that all States formerly recognized those rights by incorporating them into domestic legal instruments. His country was so convinced that there could be no real social progress without respect for human rights and fundamental freedoms that the basic provisions of the Universal Declaration of Human Rights had been incorporated into the Constitution adopted by referendum in December 1992 and enacted in January 1993. That was evident from the provisions of articles 11 and 12 of the Constitution.

17. He noted with satisfaction that the World Conference on Human Rights had adopted in June 1993 the Vienna Declaration and Programme of Action, which the General Assembly had endorsed in resolution 48/121. The fundamental principles of the Declaration had already been incorporated into his country's basic law. Niger had also ratified the two international human rights covenants, the Convention on the Rights of the Child as well as the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol.

18. Niger was also a party to the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. His country's Constitution granted foreigners the same rights and freedoms as those of Nigerian citizens (art. 9). For that reason, Niger, in spite of its modest means, had accepted thousands of refugees from the subregion. His Government expressed its appreciation to the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the European Development Fund, UNDP and the Canadian International Development Agency, which had provided Niger with various types of assistance and commended them for their work on behalf of refugees and displaced persons.

19. He noted with satisfaction that the General Assembly had established the post of the United Nations High Commissioner for Human Rights under resolution 48/141 and commended the Centre for Human Rights, which had thus far carried out its difficult mission in a competent, perspicacious and objective manner and in strict accordance with its mandate.

20. Niger was prepared to participate in the work of the Human Rights Committee as it was already taking part in the work of the African Commission on Human and Peoples' Rights. Several associations for the defence of human rights had been formed in Niger since the establishment of its multi-party system.

21. In order to promote and protect human rights, it was necessary to ensure decent living conditions. Illiteracy and poverty led to instability and weakened democracy. The right to development and human rights were two sides of the same coin and therefore indivisible. Accordingly, economic, social and cultural rights should be dealt with on an equal footing with civil and political rights. The World Conference on Human Rights, moreover, had stressed that democracy, development and respect for human rights were independent and mutually reinforcing. It was hoped that that relationship would be further underscored at the World Summit for Social Development to take place in March 1995. In that connection, he stressed the relevance of General Assembly resolutions 48/123 and 48/125.

22. Mr. OSVALD (Sweden), speaking on behalf of the Nordic countries on agenda item 100 (a), said that the International Covenant on Civil and Political Rights, with the First and Second Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights, which were based on the Universal Declaration of Human Rights, the forty-fifth anniversary of which had been celebrated in 1993, must gain universal adherence. It was regrettable that more than a quarter of a century since the adoption of the two Covenants, close to a third of the Member States had still not ratified or acceded to them. Measures to ensure universal accession, therefore, must continue to be a priority, a view strongly endorsed by the World Conference on Human Rights. In that context, the Nordic countries welcomed the dialogue initiated by the Secretary-General with Member States that had not acceded to the international human rights covenants.

23. He noted with serious concern the increasing number of far-reaching reservations made by States when acceding to or ratifying human rights treaties. An alarming number of reservations were incompatible with the object and purpose of the instruments in question or made sweeping references to national legislation, which was contrary to international treaty law. In order to avoid proliferation of reservations, States parties might find it necessary to declare that the reservations expressed by other States parties to human rights conventions, unless withdrawn or specified in accordance with international law, were an obstacle to the entry into force of the convention between the States parties concerned, or were not valid. In addition, States that wished to express reservations could be assisted in formulating them as specifically as possible and in accordance with international law. The World Conference on Human Rights had clearly recommended that States should ensure that no reservations were incompatible with the object and purpose of the relevant instrument. The Nordic countries therefore strongly appealed to the States concerned to reconsider their reservations with a view to withdrawing them as soon as possible.

24. By ratifying or acceding to a convention, States were also obliged to implement its provisions, including those relating to the submission of reports. Too many reports by States parties were overdue. It was therefore most important for the Centre for Human Rights to continue its technical assistance to States parties to enable them to draw up their reports, particularly initial reports.

25. The meetings of the chairpersons of the treaty monitoring bodies had been very useful for enhancing the implementation of the various instruments; the establishment of a computerized database, which would facilitate the functioning of the treaty bodies, must be given high priority.

26. The codification of human rights was a long process, and the development of new human rights instruments had widened the protection of those rights. The Nordic countries, while echoing the appeal of the World Conference on Human Rights for the early adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, welcomed the establishment of the working group on the elaboration of an optional

protocol to the Convention on the Rights of the Child regarding involvement in armed conflicts, and supported the possibility of introducing the right of petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

27. With reference to agenda item 100 (e), she said that the right to life was the most fundamental of all human rights, and that the death penalty was a form of punishment which violated the dignity of the human being. Since 1959, the United Nations, with the active support of the Nordic countries, had been seeking to abolish capital punishment, and although the ultimate goal had not yet been reached, some progress had been made. Although to date 54 countries, including the Nordic countries, had abolished the death penalty for all offences, while others had limited the number of offences for which capital punishment could be imposed, the Nordic countries were greatly concerned to note that some States were using that penalty more widely and that the number of offences punishable by the death penalty had increased.

28. The international community should focus on abolishing the death penalty. That should be considered as progress in the enjoyment of human rights, which rights should be universal; it was the absolute responsibility of each individual State to promote those rights.

29. Mr. FERRARIN (Italy), speaking with reference to agenda item 100 (e), said that his delegation fully supported the views expressed by Germany in its capacity as the current President of the European Union, and was in favour of the abolition of the death penalty. However, he pointed out that, in requesting together with other Member States, the inclusion of the item on the agenda of the forty-ninth session of the General Assembly, his delegation's aim had not been to force a confrontation between abolitionists and anti-abolitionist States, but to reopen the discussion on capital punishment in a constructive and cooperative spirit.

30. The United Nations had long attached great importance to the eventual abolition of the death penalty, which had been reflected in several General Assembly resolutions, in particular resolutions 2393 (XXIII) and 2857 (XXVI) and, above all, the Second Optional Protocol to the International Covenant on Civil and Political Rights, which the General Assembly had adopted in December 1989. Recently, the United Nations had further reinforced that position by deciding that the international tribunals which had been set up to investigate the crimes committed against humanity in the former Yugoslavia and in Rwanda would not impose capital punishment, even for the most terrible crimes. In more general terms, the death penalty had been excluded from the list of possible punishments envisaged in the draft statute of the proposed International Criminal Court; that was quite understandable considering that it was a violation of the right to life, which was established in the principal human rights instruments and which all countries agreed was sacred in character.

31. At present the situation varied greatly from one country to another; some States had abolished the death penalty, while others contented themselves with limiting its application or continuing to apply it as in the past, convinced -

mistakenly, according to several statistical studies - that it had a deterrent effect. However long the road to a generalized abolition of capital punishment might seem, certain aspects of executions raised legal, social and humanitarian concerns. The Economic and Social Council had sought to address those concerns in resolution 1984/50, by adopting a series of safeguards guaranteeing protection of the rights of those facing the death penalty, which had been recommended to it by the Committee on Crime Prevention and Control. Since a growing number of countries while retaining the death penalty were not enforcing it, he suggested, in order to speed matters up, that all Member States who had not abolished capital punishment should consider suspending executions until the year 2000; the six-year moratorium would give States time to reflect on the issue and reconcile their points of view.

32. Mr. PACHIU (Romania) stressed that in implementing human rights instruments it was necessary to be guided by the spirit of the Vienna Declaration and Programme of Action, the foundation of the whole system of human rights protection, in terms of standard-setting, codification and implementation. With the shaping of a coherent and comprehensive legislative and institutional framework the first stage of that complex process had been completed. The time had come to concentrate on improving and expanding the monitoring of international standards and improving the coordination and effectiveness of United Nations human rights machinery. The elaboration of new standards and the reinterpretation of some aspects of human rights instruments should be limited to those areas which were of particular significance in view of new developments, or on which there was broad consensus among Member States. At the same time, that should not jeopardize efforts to enhance the effectiveness of the machinery for the promotion and protection of human rights both at the international and domestic level.

33. Addressing the question of ratification and accession to international human rights instruments, and withdrawal of reservations that limited the universality of those instruments, his delegation welcomed the substantial increase in accessions to the various United Nations human rights instruments, particularly to those provided with monitoring bodies. Romania was itself a party to the international Covenants and the Optional Protocols thereto, as well as to nearly all the United Nations human rights instruments, and it was trying to fulfil its reporting obligations.

34. Recalling that the right to life was a basic human right, he said that Romania, whose constitution guaranteed the right to life and the physical and mental integrity of the person, and prohibited the death penalty, was also a party to the sixth optional protocol to the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms.

35. As a country strongly committed to democratic values, Romania was constantly bringing its legislation into line with international and European norms, and it maintained an open dialogue and genuine cooperation with the bodies monitoring the application of United Nations human rights instruments. It was aware of the importance of maintaining and strengthening those bodies, and the whole procedural mechanism: rapporteurs, representatives, experts and

working groups, which made it possible to monitor how far States parties were fulfilling their responsibilities. Romania also welcomed the practice of following up on the examination of reports, the valuable activities performed by the Human Rights Committee and other treaty bodies regarding the drafting of general comments, as well as the recent decision to hold annual meetings of the chairpersons of human rights treaty bodies.

36. His delegation considered that the international community should encourage the role of the High Commissioner for Human Rights as well as the work of the Centre for Human Rights in the field of advisory services and technical cooperation. More precisely, he welcomed the analysis prepared by the Centre for Human Rights of the status of implementation of the recommendations contained in the Vienna Declaration and Programme of Action, which contained specific recommendations in that respect.

37. Convinced that each State had a responsibility to promote and enforce respect for human rights, Romania was taking steps to bring its legislation into line with relevant international and European norms.

38. In addition to its attachment to the United Nations human rights system, Romania, as a member of the Council of Europe and an associate member of the European Union, was totally committed to the European process of integration, the aim of which was to create a climate of confidence and security which would facilitate the implementation of the three objectives, development, peace and democracy.

39. Romania fully subscribed to the principle of regional security and stability, founded upon appropriate protection for human rights, in particular, the rights of persons belonging to national minorities. The Romanian Government, while proceeding with legislative reform which already provided constitutional protection for the rights of persons belonging to national minorities, and for their participation in every aspect of public life, had equipped itself with a comprehensive institutional system designed to provide additional safeguards for the protection of human rights. They were the Constitutional Court, the institution of the Ombudsman and the Council on National Minorities, a consultative body designed to ensure effective dialogue between the representatives of minorities and the Government.

40. In conclusion, he reiterated his country's full commitment to efforts aimed at the enhancement of United Nations human rights machinery, and emphasized the need to strengthen the rule of law and democratic institutions and processes at the domestic level.

41. Mr. LI Baodong (China), speaking on agenda item 100 (a), stressed the effectiveness of the international instruments, and the monitoring and reporting procedures established by the United Nations in promoting human rights. He noted, however, that the late submission of reports was becoming increasingly serious and common. Certainly, the practice of reporting overburdened States parties; some way of easing their task should be sought on a priority basis.

His delegation proposed reducing the number of reports and simplifying reporting procedures.

42. The Convention on the Rights of the Child was the international human rights instrument which thus far commanded the widest consensus. The international community, through, in particular, the Committee on the Rights of the Child, had made an active effort to implement it. However, the unprecedented and still growing number of States parties to the Convention had been reflected in a corresponding number of reports and an increased need for technical assistance and cooperation, with a commensurate increase in the Committee's workload and responsibilities. As the Committee was essential to the implementation of the Convention, that problem must be solved in order to enable the Committee to carry out its functions speedily and effectively. To that end, the Committee had proposed that the number of its annual sessions and sessions of the working group established for the preliminary review of the reports of States parties and consideration of appropriate areas for technical assistance and cooperation should be increased to three. That proposal deserved consideration.

43. His Government always supported efforts by the United Nations to promote human rights and fundamental freedoms in accordance with the purposes and principles of the Charter. It had actively participated in the drafting and formulation of international human rights instruments. In recent years, within the framework of its reform process, of opening up to the outside world, and of rapid economic development, China had made remarkable progress in improving and promoting respect for human rights. Since 1980, it had signed, acceded to or ratified a number of human rights instruments and had submitted reports on their implementation at the national level. With regard to the Convention on the Rights of the Child, his Government had invited representatives of the competent departments, social organizations and children's and youth associations to discuss the content and main ideas of the report to be submitted and had asked them to provide information according to their work and functions. Having completed the drafting of the first report on the basis of the guidelines adopted at the first session of the Committee on the Rights of the Child, the departments concerned were seeking the views of the community. The report would help the international community to understand in detail how China was implementing the Convention.

44. Referring to agenda item 100 (e), his delegation recommended that the sentence of capital punishment should be rendered and executed only if extreme caution was exercised and that rigorous legal procedures should be followed. As a social phenomenon, however, the adoption, practice or abolition of capital punishment were controlled by many factors in a society, including political, economic, cultural and historical factors. It was precisely for that reason that most countries in the world still practised capital punishment. The abolition of capital punishment was an internal matter to be decided by States; it was therefore unrealistic to request all countries to abolish it.

45. Mr. BIGGAR (Ireland) spoke on agenda item 100 (e), which Germany had already addressed on behalf of the States members of the European Union. His

delegation approached the question from the perspective of safeguarding the most fundamental of human rights, the right to life, without which all other rights were meaningless. That right was explicitly set forth in article 3 of the Universal Declaration of Human Rights and reaffirmed in article 6 of the International Covenant on Civil and Political Rights. His delegation was convinced that it was the State's duty to safeguard that right and ensure that it was respected, and that the death penalty constituted a violation of that essential right. Therefore, any action to abolish capital punishment contributed to enhancing human dignity and ensuring respect for human rights.

46. Article 6 of the International Covenant on Civil and Political Rights reaffirmed the right to life and established specific restrictions on the imposition and execution of the death penalty. It was evident that those who had drafted the Covenant would have wished to prohibit capital punishment. The time had come to convert that wish into reality.

47. No one had been executed in Ireland since 1954, a reflection of the public's attitude towards the death penalty. In 1964, Ireland had abolished the death penalty, except in the very specific case of the most heinous crimes. In 1989, it had abolished it for offences of any nature, whether civil or military. In 1993, it had acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights.

48. When the death penalty had been abolished, the Minister of Justice at the time had recalled that the overwhelming body of scientific evidence and studies proved that the death penalty was not an effective deterrent. In any event, even if it were, Governments would have to be subject to limitations on its application. His delegation agreed with a number of other representatives that society must protect its essential fabric but believed that that was not a reason to resort to the violation of human rights. In its view, the imposition of a lengthy mandatory prison sentence could be an equally effective deterrent. The fallibility of human justice - in other words, the risk of sentencing an innocent person to death - was yet another argument against the death penalty. Convinced that the abolition of the death penalty in all countries would represent a major stride towards universal respect for human rights, his delegation strongly urged all States to accede to the Second Optional Protocol as a matter of priority and to abolish the death penalty.

49. Recognizing, however, that not all States might be prepared at the current stage to take such measures, he urged all those States which had not yet abolished the death penalty to declare, as a matter of urgency, a moratorium on the execution of all sentences of capital punishment. That would be a first step towards the effective abolition of the death penalty. In any event, his delegation strongly urged all States which still practised the death penalty to take immediate steps to restrict its application to an absolute minimum and, in all cases, to comply with the essential restrictions set forth in article 6 of the International Covenant on Civil and Political Rights.

50. Ireland hoped that the draft resolution on capital punishment would be adopted by the Committee at a later stage and that it would have the effect of

encouraging more States to become parties to the Second Optional Protocol and to favour the declaration of a moratorium on all executions.

51. Mrs. ESHMAMBETOVA (Kyrgyz Republic) speaking on agenda item 100 (a), stressed that protection of human rights was a condition for sustainable development and the strengthening of international peace and security and that the international human rights instruments drawn up within the framework of the United Nations provided the necessary standards and guidelines for the world community in that field.

52. Since becoming independent, the Kyrgyz Republic had established a democratic and civil society based on respect for human rights. Furthermore, over the past two years, her country had become a party to the Universal Declaration of Human Rights and the major human rights conventions, including the two international covenants. It had also signed the Optional Protocol to the International Covenant on Civil and Political Rights, thus recognizing the competence of the Human Rights Committee to consider complaints by individuals of human rights violations in her country. Kyrgyzstan had recently deposited with the Secretary-General its instrument of accession to the Convention on the Rights of the Child.

53. While acceding to key international instruments, her country would take appropriate steps to bring its national legislation into accordance with its commitments. In the spirit of the Universal Declaration and other documents, the Constitution adopted in 1993 set forth standards for political, social, economic and cultural rights. Eight political parties and over 300 public associations were registered and operated freely in the country; and more than 12 newspapers expressing a wide range of viewpoints were published.

54. Tolerance was the touchstone of the political culture of Kyrgyzstan, which comprised numerous communities that had various religious, racial, national, cultural and political affiliations. It was crucial to protect the rights of those groups since a country's political stability depended to a large extent on harmony among its ethnic groups, without which there would be social unrest.

55. The Kyrgyz Republic, which was aware of the fragility of its democratic institutions, was committed to strengthening them in order to ensure the rule of law. Therefore, it was interested in close cooperation with the United Nations and other international bodies active in the field of international law. Her country welcomed the appointment of the High Commissioner for Human Rights (General Assembly resolution 48/141) and confirmed its commitment to the spirit and letter of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993.

56. She commended the Assistant Secretary-General for Human Rights for his introductory statement on 16 November 1994 and supported the view that the United Nations human rights instruments adopted by the General Assembly were of vital importance and that the bodies monitoring their implementation must receive the necessary support and resources to enhance their crucial work of ensuring compliance with human rights standards. The Kyrgyz Republic was

pleased to learn that the work of the Committee on the Rights of the Child would be expanded and commended the Centre for Human Rights for supporting the work of that Committee by initiating a computerized database project.

57. Mr. YASSIN (Sudan), speaking on agenda item 100 (e), said that his delegation had initially been opposed to the inclusion of that item on the agenda, but had later changed its position in the belief that capital punishment was a matter to be dealt with by the Sixth Committee.

58. He wished to make the following comments on the draft resolution under consideration in document A/49/234. First, since the draft resolution called upon all States to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aimed to abolish capital punishment, the text did not take into account the religious beliefs and cultural traditions of numerous countries. Second, although the draft text advocated clemency for criminals, one might legitimately wonder how States could ensure the security of citizens in view of the increase in crimes without resorting to capital punishment. It was difficult to believe that imprisonment alone could dissuade criminals from committing or continuing to commit crimes since prisons were more places of refuge where one could be protected and fed rather than places of hardship and served more to comfort criminals in their anti-social attitudes rather than make them change. Third, since 130 States imposed capital punishment in cases of premeditated murder, it was difficult not to take account of the reasons for their choice. Fourth, regardless of their basic principles, all penal theories agreed on the need to deal harshly with offenders and criminals, which they considered the only way to ensure in a lasting way the security of persons and property. Fifth, although the law of the revealed religions attached great importance to capital punishment in the view that it was a way to preserve life, it did not necessarily result in summary justice for criminals, as some seemed to believe. In Islamic countries, for example, capital punishment was imposed only when it was irrefutably proved that the accused party was guilty of the crimes with which he was charged, contrary to what occurred in some English-speaking countries like the United States, for example, where one could be sentenced to death solely on the basis of reasonable doubt. Furthermore, under Islamic law, a person accused of committing premeditated murder could take advantage of more than 80 arguments (including madness, self-defence, or being subject to sudden and violent emotional outbursts, for example) in order to escape capital punishment. Furthermore, there was a very widespread practice in Islamic countries according to which the family of a murdered person might decide not to bring charges against the murderer if he paid the family a certain amount of money.

59. In view of those considerations, his delegation believed that instead of calling into question the usefulness of capital punishment, the legal institutions and judicial bodies of the international community should immediately consider the fundamental question of establishing rules to be respected in order to ensure that accused persons were defended and were judged only after their behaviour, previous history and the reasons for their acts had been studied in detail.

60. Lastly, he said that his delegation could not accept the draft resolution on capital punishment and urged all States not to adopt it.

61. Mr. CASTILLO (Nicaragua), speaking on agenda item 100 (a), said that respect for human rights was a major concern of his Government and that on that basis it was promoting the establishment of the post of prosecutor for the defence of human rights, whose mandate would be to consider the work of public authorities relating to human rights, put forward recommendations in that regard and act as an intermediary between the authorities and the people.

62. The second International Conference of New and Restored Democracies (Conferencia internacional de las democracias nuevas o restauradas) had been held in Managua (Nicaragua) from 4 to 7 July 1994 with the participation of more than 70 countries from four continents as well as special guests and international organizations. In the Managua Declaration, which they had adopted, the participants in the Conference had expressed the view that democracy was the only system that enabled countries to reach agreement freely and on a permanent basis in order to ensure peace. They had also declared that the implementation of policies to foster lasting development and improve the living standard of the poorest sectors of society depended on the existence of institutions that could promote the exercise of civil and political freedoms. The action plan adopted by the Conference provided for measures to ensure the holding of free, authentic and periodic elections, guarantee full respect for basic freedoms and promote a spirit of tolerance as well as speedy accession by the countries participating in the Conference to various international legal instruments concerning civil, political, economic, social and cultural rights.

63. As part of its efforts to achieve peace and promote human rights, Nicaragua had established a standing national forum on democracy and peace in which representatives of all sectors of civil society participated. That forum, whose primary objective was to strengthen democracy and peace and to foster consensus-building on all the major issues of national interest, was expected to usher in a culture of non-violence, dialogue and negotiation as means of resolving any problems that the country might face in future.

64. Similarly, the Nicaraguan Government was implementing, together with other Central American countries, a programme to promote a culture of peace and democracy in the region. The aim of that programme, of which the University for Peace was the executing agency and which had been established at the initiative of the Nicaraguan Government, was to create the conditions for social stability needed for economic growth in the countries of the region by organizing national education campaigns for peace and democracy, cultural festivals for peace and democracy at the municipal and national levels especially in areas that had been the scene of conflicts, and training courses for journalists on the role and responsibility of the press.

65. Clearly, free elections by secret ballot were one of the essential conditions for the establishment of democratic systems. In that regard, he welcomed the elections that had been held on 27 February 1994 in the autonomous regions of the Atlantic seaboard of Nicaragua. As the over 150 national and

international observers from Sweden, the United States of America and other countries as well as the Organization of American States and the United Nations had testified, no incidents or anomalies had been reported during those elections, in which most of the country's political parties and grass-roots associations had participated.

66. One of his Government's main priorities was to ensure that Nicaragua had a professional army that put national interests before those of any political party. With that in mind, the Government had begun as far back as 1990 to reduce the army's strength - which had dropped from 100,000 troops in 1994 to 15,000 currently - and budget; a code regulating the chain of command, structure and composition and internal rules of operation of the army had been adopted on 2 September 1994 for the first time in the country's history.

67. In October 1994 an ecological summit meeting on the sustainable development of Central America had been held in Nicaragua, at the end of which the Presidents of the Central American countries and the Prime Minister of Belize had concluded an Alliance for Sustainable Development, which provided for the implementation of a regional strategy for coordinating and holding consultations on national development initiatives and measures to ensure respect for human rights.

68. Also, on 24 and 25 October 1994, an International Conference on Peace and Development, which had been convened by the Presidents of the Central American countries and the Prime Minister of Belize, had been held at Tegucigalpa, Honduras. During the conference, the countries of the region had debated the future of Central America with the representatives of their respective civil societies and the international community. They committed themselves to promoting respect for human rights and, to that end, requested the Central American Council of Counsels for Human Rights to submit a report to them on their human rights activities and to make recommendations on the means of developing such activities systematically. Similarly, they agreed to implement a plan of action in the area of the teaching of peace and democracy and planned to reconvene a conference on peace and development periodically.

69. Turning to another topic, his delegation felt that the international community must find means of putting and end to the ongoing violations of basic human rights in Bosnia and Herzegovina and Rwanda once and for all. Moreover, while his delegation welcomed the actions undertaken by the United Nations High Commissioner for Human Rights in the countries wracked by conflicts, it felt that such action would be even more useful if it was undertaken as part of preventive diplomacy, namely, before the outbreak of conflicts and not afterwards. In that regard, more resources should be made available to the High Commissioner in order to enable him to carry out his important mission even more effectively. Similarly, the cost-effectiveness of international human rights organizations should be assessed so as to ensure that the meagre available resources were used effectively and that any duplication of effort was avoided.

70. His delegation attached considerable importance to the World Summit for Social Development to be held in 1995 and hoped that it would provide the

opportunity for industrialized countries to commit themselves to assisting countries of the South in eliminating poverty, creating productive jobs and promoting the integration of their societies, because it would afford a good opportunity for addressing human rights violations, which were often linked to the lack of development or underdevelopment.

71. Turning to agenda item 100 (e), he recalled that Nicaragua, which had abolished the death penalty, fully supported instruments which provided for its abolition and that it had been one of the countries that had requested the inclusion of item 100 (e) on the agenda of the forty-ninth session of the General Assembly.

72. Mrs. KYEYUNE (Uganda), referring to agenda item 100 (a), said that it was owing to her country's commitment to the observance and promotion of human rights that it had become a party to a number of the principal human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. Uganda would continue to evaluate other human rights instruments objectively.

73. The fact that her delegation was unable to comply in a timely manner with the provisions of article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in no way demeaned the importance it attached to the Convention. Every effort was being made by her Government in consultation with the Centre for Human Rights to enable it to meet its obligations under the Convention. In early 1994, her Government had accordingly requested advisory services and technical assistance of the Centre for Human Rights and welcomed the positive response to that request, as indicated in the report of the Committee against Torture (A/49/44). Unless developing countries were assisted in developing and enhancing their capacity in the area of human rights, they would continue to experience serious constraints in attempting to meet their obligations under conventions.

74. Concerning agenda item 100 (e), she noted that it was important to recognize and respect the national law and norms of individual countries. Uganda would continue to address the issue of capital punishment from a legal perspective.

75. The CHAIRMAN urged sponsors of draft resolutions to intensify their consultations and to have a clear idea of the decision which would be taken on their texts. Delegations should avoid introducing new amendments at meetings convened to take decisions on proposals.

The meeting rose at 12.35 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

THIRD COMMITTEE
37th meeting
held on
Monday, 21 November 1994
at 3 p.m.
New York

SUMMARY RECORD OF THE 37th MEETING

Chairman: Mr. CISSE (Senegal)

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(b) HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued)

(c) HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES (continued)

(d) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE VIENNA DECLARATION AND PROGRAMME OF ACTION (continued)

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The meeting was called to order at 3.45 p.m.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued) (A/49/36)

(b) HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued) (A/49/188, A/49/228-S/1994/827, A/49/264-E/1994/113, A/49/293, 311, 321, 337, 366, 410, 415, 416, 512, 528, 545, 582 and 595; A/C.3/49/5, 9, 11 and 17)

(c) HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES (continued) (A/49/82, 85, 88, 168, A/49/183-S/1994/733, A/49/186, A/49/218-S/1994/801, A/49/270-E/1994/116, A/49/273-S/1994/864, A/49/394, A/49/455, A/49/508-S/1994/1157, A/49/513, A/49/514 and Add.1 and Add.2, A/49/538, A/49/539, A/49/594 and Add.1, A/49/635 and Add.1, A/49/641-S/1994/1252, A/49/650 and A/49/651; A/C.3/49/15, 16, 17 and 19)

(d) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE VIENNA DECLARATION AND PROGRAMME OF ACTION (continued) (A/49/668; A/C.3/49/5, 8 and 10)

1. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights), introducing his report (A/49/36), pledged his determination to meet the aspirations of the world's people for the realization of human rights. The World Conference on Human Rights, held in Vienna in 1993, had reaffirmed the universality of human rights and recognized the international community's fundamental responsibility for the promotion and protection of those rights. To that end, as the first United Nations High Commissioner for Human Rights, he solemnly pledged to preserve and strengthen the spirit of international cooperation embodied in that Conference, in accordance with his mandate and responsibilities under General Assembly resolution 48/141.

2. It was not the role of the High Commissioner to replace the existing human rights mechanisms, but rather to use the tools of policy and diplomacy to establish a dialogue with Governments on human rights issues and assistance. He would act in an impartial, objective and non-selective manner on the basis of three main principles: cooperation at all levels; comprehensive and integrated treatment of human rights; and participation of all actors at all levels.

3. At the most recent session of the Administrative Committee on Coordination (ACC), he had stressed the need for a systematic exchange of information, experience and expertise on human rights within the United Nations system. The results of the session, summarized in paragraph 24 of his report, were most encouraging. In relations with institutions outside the system, in particular, regional intergovernmental organizations, national human rights institutions and academic and research communities, he had initiated a dialogue aimed at enhancing the possibilities for cooperative endeavours, especially in connection with the implementation of the Vienna Declaration and Programme of Action.

4. In response to the emergency human rights situation in Rwanda, he had visited that country in May and had spurred the Commission on Human Rights to appoint a Special Rapporteur, whose work he was responsible for coordinating with that of the Commission of Experts on grave violations of international humanitarian law and genocide. In August, he had returned to Rwanda for the purpose of strengthening the human rights observer presence. He had also discussed the country's needs with its President and had stressed the importance of instituting technical cooperation programmes with the Centre for Human Rights, especially with regard to the judiciary, the armed forces and the police, and also of human rights education. In overcoming the enormous logistical and bureaucratic problems involved in responding to the crisis in Rwanda, the United Nations had gained a great deal of insight into human rights field operations that might prove valuable for the future. In that connection, he expressed his support for the call by the President of Argentina for the establishment of stand-by rapid reaction forces to respond to humanitarian emergencies.

5. The events in Rwanda highlighted the need for another essential facet of the High Commissioner's responsibilities: preventive action. He would look to the various special reporting procedures for early notice of problem areas and would avail himself of every possibility for diplomatic action. In Burundi, for example, he had endeavoured to open and smooth the way for a human rights technical assistance programme, which he hoped would be able to prevent a repetition of the tragedy in Rwanda. If need be, the United Nations human rights presence there could also play a part in a comprehensive United Nations humanitarian assistance effort. In his view, Burundi represented a litmus test of the international community's willingness to act in close cooperation with all relevant United Nations agencies and programmes to forestall a human rights disaster. He was pleased at the action taken thus far by the General Assembly on Burundi and at the support expressed by Member States for the Organization's human rights work in that country.

6. He would also be working to assist countries in their transition to democracy. He had, for example, visited Malawi, where he had signed with the Vice-President a joint declaration on the development of an advisory and technical assistance programme for the promotion and protection of human rights. He strongly believed that the international community had a moral obligation to help Malawi strengthen its human rights and democratic infrastructures. By completing the transition to democracy successfully, Malawi could serve as an example to other African countries.

7. The World Conference on Human Rights had given priority to the right to development as a fundamental human right. The High Commissioner was charged specifically with protecting the realization of that right and with enhancing support from the relevant United Nations bodies. He believed that indicators of progress in the realization of economic, social and cultural rights, the development of which was being discussed within ACC, would prove a key tool and that, in general, cooperation among the various United Nations and non-governmental organizations was essential. As he had said in addressing the Working Group on the Right to Development, he was keenly aware of the impact on

the realization of the right to development of structural adjustment policies arising from foreign debt, and he would be following that matter closely. He attached great importance to developing a variety of techniques, outlined in paragraph 73 of his report, for translating the concept of that right to the national level.

8. In keeping with his mandate, and with the conclusions of the Vienna Conference, he attached high priority to facilitating concerted efforts to eliminate racial discrimination and racism. He had established a constructive dialogue with the Committee on the Elimination of Racial Discrimination and would be working to ensure coordination between the activities of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and those carried out in connection with the Third Decade to Combat Racism and Racial Discrimination.

9. Since he attached particular importance to the rights and equal status of women, he was closely following preparations for the Fourth World Conference on Women. He attached similar importance to human rights education and information aimed at creating a universal culture of human rights, which were central to preparations for a plan of action for the United Nations decade for human rights education. In that connection, he also envisaged a stronger and more focused World Public Information Campaign for Human Rights.

10. In the context of those and other human rights issues, he had already undertaken missions to a number of countries to initiate a dialogue with Governments. In that dialogue, which was beginning to bear fruit, he emphasized Governments' universal obligation to promote and protect all human rights, encouraged and facilitated the ratification of international human rights instruments and the identification of obstacles to the full realization of all human rights, and offered United Nations assistance to that end.

11. With reference to his specific responsibility for rationalizing, adapting, strengthening and streamlining the United Nations machinery in the field of human rights with a view to improving its efficiency and effectiveness, he said that the creation of the position of High Commissioner for Human Rights had entailed an increase in the work of the Centre for Human Rights. Advisory services and technical assistance programmes had been strengthened, particularly in the areas of building national human rights infrastructures, administering justice and training law enforcement officials. The six subprogrammes described in the proposed revisions to the Medium-term Plan, which included a new subprogramme on international cooperation for human rights, corresponded clearly to the precise tasks of his Office and to specific mandates requested by the legislative organs and carried out by the Centre for Human Rights. However, the Centre's already inadequate resources needed to be supplemented to meet his Office's requirements, although only a modest increase in funding would be requested. Meanwhile, his review of the possible need to restructure the United Nations Secretariat in line with his mandate would extend to all sections dealing with human rights matters. His views on proposals for the rationalization and streamlining of the United Nations human rights machinery would be presented in due course, bearing in mind the opinions of Member States.

12. Having given details of the areas in which he had already sought to open avenues of action for the United Nations human rights programme, he added that, within both the international community and the United Nations system, opportunities for cooperation and the coordination of human rights activities had been enhanced and expanded. However, realizing the full potential of his mandate required that the necessary resources be placed at his disposal, so that he could respond to the expectations of world public opinion for effective action in defence of human rights. Moreover, success in that area would not only strengthen the entire human rights programme but also heighten support for United Nations activities in other fields.

13. Regrettably, the disappearance of confrontation between blocs of States and the universal recognition of human rights were not sufficient to bring about a new international order that was more just, progressive and free. An active spirit of cooperation and understanding was needed, combined with persistent efforts to ensure respect for human dignity. The position of High Commissioner had been created with those considerations in mind, and he was determined to give it a clear profile. Following the terms of reference established by the General Assembly and guided by the spirit of the Vienna Declaration and Programme of Action, he had endeavoured to respond appropriately and effectively to the multiple and changing challenges which presented themselves. He did not intend to alter that approach and was confident that he could continue to count on the generous support already received from Member States and intergovernmental and non-governmental organizations.

14. Mr. MUCH (Germany), speaking on behalf of the European Union, expressed full support for the mandate of the High Commissioner for Human Rights and commended the impressive work already carried out. With reference to paragraphs 58 and 59 of the report (A/49/36), he asked whether the international community would be required to assist in providing logistical support and human resources. In connection with Rwanda, he would be interested to hear details of the cooperation and coordination established between the Office of the High Commissioner for Human Rights, other United Nations bodies and humanitarian organizations. He wondered whether the High Commissioner's mandate had been broad enough to enable him to carry out all the activities needed in Rwanda, for instance, and wished to hear the High Commissioner's views on his own resource needs and those of the Centre for Human Rights. Lastly, he asked whether the High Commission would be including any additional requirements for early-warning and preventive action in his budget outline for 1996-1997.

15. Mrs. DIOP (Senegal) echoed the sentiments expressed by the representative of Germany concerning the High Commissioner's work. She asked why only 50 United Nations human rights field officers had so far been posted to Rwanda, when the operational plan envisaged 147 such officers, and what would be done to ensure that their presence in Rwanda was effective. She wished to know more about the High Commissioner's programme of work in connection with the promotion and protection of the right to development and, lastly, what he thought of the proposals for convening a conference on racism and racial discrimination.

16. Mr. HALINEN (Finland) said that the High Commissioner had a decisive role to play in securing the resources needed to fulfil his mandate, since Member States, while recognizing their central role in that connection, could only act within their capabilities. It would have been useful if the High Commissioner's report (A/49/36) had included further details of those resources. Since paragraph 8 of the report referred to an integrated approach to the promotion of human rights, his delegation would prefer it if United Nations system-wide activities, as referred to in paragraph 21, were integrated as well as coordinated.

17. On another note, he said that the welcome coordination between the High Commissioner, the Conference on Security and Cooperation in Europe (CSCE) and the Council of Europe, referred to in paragraph 34 of the report, should be extended to include the Security Council, since the chairpersons of the human rights treaty bodies had proposed that the latter should consider the use of fact-finding and early-warning systems. The conflict resolution, peace-building and strong human rights component mentioned in connection with activities in Rwanda should also be extended to a more general level. As indicated in paragraph 59, his country had been asked to cooperate in securing support in a variety of areas mentioned in that paragraph, and it would endeavour to do so. He hoped, however, that other countries would also cooperate to that end. Turning to paragraph 66, he welcomed the High Commissioner's request that potentially serious human rights situations be drawn to his attention. Lastly, he agreed that the review and restructuring of the United Nations Secretariat mentioned in paragraph 101 should not be limited to the Centre for Human Rights. It should also be conducted without unnecessary delay.

18. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said that the Rwanda experience had been a political success and a logistical failure. It had been successful in that his Office had been able to respond rapidly to the universal demand that it react immediately and draw up a coherent plan of action, even though it had had no prior field experience of operations of such magnitude in response to political emergencies.

19. The operation in Rwanda had been a logistical failure because his Office had lacked the necessary resources in the areas of transport, communications and equipment. Delays had inevitably occurred because the Office had for a long time been unable to overcome its difficulties in that regard. All States had offered help, but very few had provided practical assistance. Nevertheless, the Rwanda operation was now firmly established, although some problems persisted. A considerable number of people were working in the field and their activities were viewed as highly positive by all the United Nations agencies concerned. Progress was therefore being made towards normalizing the situation in Rwanda.

20. The Rwanda experience had underscored the need for lists of people who could stand by to: (a) investigate human rights violations, particularly massacres, so as to provide data for use in legal proceedings; (b) create an atmosphere of trust so that refugees could return and the people of Rwanda could restore their civil institutions; and (c) work on technical assistance programmes. The possibility should also be considered of having equipment on

reserve in order to respond immediately when such emergencies arose. A mechanism should be set up for dealing with emergency situations in strict conformity with the mandate of the High Commissioner.

21. Operations of the type being conducted in Rwanda were financed through voluntary contributions. That placed his Office in a very difficult position, and he had had to make repeated appeals for such contributions to cover activities in Rwanda. There was a need to make advance provision for emergency situations so as to avoid delays that cast doubts on the effectiveness of the United Nations system as a whole.

22. The right to development was a basic element of the Vienna Declaration and Programme of Action, as well as a fundamental aspiration of the international community. As such, it must be given priority in the programmes to be carried out by the High Commissioner. His office was financing studies and initiatives to determine practical ways of promoting the right to development. In that regard, the question of critical poverty was of major importance and great complexity. The problem was so vast that it was necessary to define an appropriate strategy, with specific goals to be achieved gradually, so that further goals could be set and pursued. The Office must remain permanently vigilant in that regard in order to meet the aspirations of all peoples.

23. Despite the successes achieved by the United Nations in combating racial discrimination, particularly apartheid, much remained to be done to deal with new forms of racism. In his visits to European countries where there were certain tendencies towards racism, he had urged Governments to do their utmost to prevent and punish acts of racism or racial discrimination. There was a need to create a clear awareness everywhere that such behaviour would not be tolerated.

24. The Centre for Human Rights was doing extremely useful work under especially difficult circumstances. Although its workload was increasing steadily, there had been no increase in the financial or human resources allocated to it. Member States must provide the Centre with the resources it needed to carry out its work effectively. With regard to the coordination of work in the human rights field, he intended to pursue cooperation with the European Union and the Conference on Security and Cooperation in Europe (CSCE) and had contacted regional organizations to propose closer coordination with them in the field of human rights.

25. Mr. BAUMANIS (Latvia) expressed satisfaction at the impartiality with which the High Commissioner had carried out his responsibilities. His recent visit to Latvia had provided valuable inputs for the discussion of Latvia's follow-up to the Vienna Declaration and Programme of Action. The preparation of a national plan for the promotion and protection of human rights and the establishment of an independent structure to protect the human rights of all individuals in Latvia clearly demonstrated his Government's commitment to implementing the Declaration and Programme of Action. Cooperation with the United Nations, CSCE, the Council of Europe and other international organizations was a priority of Latvia's foreign policy. Latvia's citizenship law had been guided by the

recommendations of Council of Europe experts and the CSCE High Commissioner on National Minorities. His country's National Human Rights Plan and its programme for the teaching of the Latvian language were also being prepared in cooperation with the United Nations, CSCE and the Council of Europe. Lastly, paragraph 111 of the report quoted the High Commissioner as saying that issues relating to minorities were very difficult human problems. In that connection, it should be kept in mind that Latvians themselves were in the minority in the country's seven largest cities.

26. Mr. KHAN (Pakistan) expressed satisfaction that the report of the High Commissioner (A/49/36) contained a section on realization of the right to development, and shared his view that the promotion of economic, social and cultural rights had not yet received the same attention as civil and political rights. His delegation commended the High Commissioner for his balanced approach to those issues and his bold intervention in Rwanda and in Burundi, where a major human rights disaster had been averted. Paragraph 66 of the report mentioned calling to the High Commissioner's attention any situations that might need his attention within the framework of the promotion and protection of human rights. In that connection, his delegation wished to draw attention to the massive violations of human rights in Jammu and Kashmir that had been reported and corroborated by human rights organizations for a number of years. He asked when the High Commissioner might visit Jammu and Kashmir and what interim measures he would consider taking before doing so. Pakistan also wished to know what cooperation would be expected from Governments in the area in order to initiate a meaningful dialogue to resolve the crisis.

27. Mr. BUKURU (Burundi) said that the work done by the High Commissioner in Burundi had been very encouraging and that his visit had had a positive effect on the negotiations that had led to the establishment of a coalition Government. Human rights were one of his Government's priorities, and it was determined to support the establishment of an office of the High Commissioner in Bujumbura. Burundi remained open to greater cooperation with the High Commissioner and supported his view that the international community should provide assistance to ensure the success of his programme in that country.

28. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said that paragraph 111 of his report spoke for itself. When he visited a country, he discussed general human rights issues and the specific human rights situation there. He sought to achieve practical results through open, frank and friendly talks. Paragraph 111 reflected only part of his discussions with authorities in the Baltic countries. In Latvia, he had received a copy of the National Human Rights Plan, which envisaged positive steps for promoting respect for human rights. He had expressed satisfaction in that regard and had encouraged the Latvian authorities to continue in that direction.

29. In carrying out his responsibilities, he considered it necessary to avoid duplicating the activities of other United Nations bodies and stressed the need to impart a new viewpoint and a new, constructive attitude to the promotion of human rights. In all cases in which States requested his assistance, he maintained contact with the Government concerned. He would continue to do so

and to seek to ensure that his country visits met the needs and desires of the States in question. He would endeavour to fulfil his mandate with complete independence and to ensure that his work was useful. In that connection, he was gratified that his Offices's activities had met the needs of the people of Burundi. He assured that country that he would give it all possible assistance to enable it to overcome the current crisis. Once that was done, Burundi would offer a very important precedent for future action in the field of human rights.

30. Mrs. FERRARO (United States of America) observed that the High Commissioner had referred to the need to set up a mechanism for dealing with emergency situations. She asked what kind of mechanism he envisaged and how it would be financed. Paragraph 86 of the report referred to the decision by the Commission on Human Rights to appoint a special rapporteur on violence against women. Her delegation wished to know how the work of that rapporteur would be coordinated with that of the Special Rapporteur on the situations in Rwanda and Burundi.

31. Mr. SAHRAOUI (Algeria), referring to paragraph 69 of the High Commissioner's report, requested specific information on the indicators to measure progress in the realization of economic, social and cultural rights and on the possibilities for using them. Paragraph 102 of the report referred to proposals to be made by the Working Group of the Third Committee for the rationalization and streamlining of the United Nations human rights machinery. His delegation wished to know to whom those proposals would be made.

32. Mr. TURK (Slovenia) welcomed the opportunity for a dialogue with the High Commissioner for Human Rights and said that he was greatly encouraged by the report on the High Commissioner's work (A/49/36). He had two comments on paragraph 74 of the report, in particular the reference to the need to develop indicators of progress in human rights and to assess the impact of the strategies and policies of the various agencies and programmes on the enjoyment of all human rights. A number of United Nations agencies and expert bodies had already looked into the matter, and human rights bodies should draw on the results of their work and on available statistical data to make a more accurate assessment of the situation with a view to issuing specific recommendations at a future date. Thus far, human rights issues had been examined chiefly from a legal standpoint. He, however, advocated a different, more comprehensive approach, with the accent on specific policies based on assessment and the proper use of available indicators.

33. With regard to existing standards relating to economic, social and cultural rights, the fact that the International Covenant on Economic, Social and Cultural Rights had been widely accepted by the international community must not be overlooked. A number of general comments had also been issued which, together with the many country reports that had been submitted, provided a wealth of information and a solid basis for establishing specific standards and, eventually, policy recommendations that would ensure the enjoyment of those rights. He therefore encouraged the High Commissioner to pursue the approach outlined in paragraph 74, and would welcome further information on the subject. Such useful inputs to the Committee and other United Nations forums would

enhance their efforts to give greater impetus to the right to development as well as to economic, social and cultural rights.

34. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said that his comments on Rwanda had been intended to highlight the need to avoid the recurrence of similar events. The agencies and bodies concerned must take specific steps to ensure a rapid response in future to such crises by establishing a stand-by pool of competent staff and holding the necessary equipment readily available. The Office of the High Commissioner had already made requests along those lines to the United Nations Secretariat, which considered that the United Nations Office at Geneva could deal with the recruitment of experts. Meanwhile, close cooperation had been established with the Department of Political Affairs and the Department of Peace-keeping Operations for the supply of equipment. Contacts would also be maintained with the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees. While he valued his Office's current cooperation with the Department of Political Affairs, given the need to solve problems rapidly in order to avert potential political conflicts, he stressed that in the absence of an effective response from that Department he would be obliged to seek assistance elsewhere.

35. In response to the query regarding women's rights, he said that his Office attached great importance to women's issues in all United Nations spheres of competence, as borne out by the establishment of a post of special rapporteur on violence against women, pursuant to the Vienna Declaration. Discussions had already been held with Burundi on that issue, but so far it had not been possible to take up the matter with Rwanda.

36. Responding to the representative of Algeria, he said that he did his best to comply with the instructions or decisions of all governmental bodies, since as a member of the Secretariat he was duty bound to serve the interests of Member States. He also considered it a part of his mandate to make suggestions with a view to assisting such bodies in their decision-making. So far, he had not provided any input to the Working Group of the Third Committee, which should be allowed time to complete its work. He would, however, do so at the appropriate time, if requested.

37. The development of indicators was a very complex issue. None the less, some studies had already been carried out to define appropriate criteria for assessing efforts made towards the realization of economic, social and cultural rights. The group of countries concerned, which was based in Geneva, would be preparing a report on the results of its work by the end of 1995. However, it was hoped that some kind of preliminary report would be available within a few months and that it would contain proposals for guaranteeing economic, social and cultural rights and, more importantly, a practical plan of implementation. That was rather a controversial issue, but he was firmly convinced that effective action to promote economic, social and cultural rights would ensure greater respect for human rights in general. The opinion of human rights experts such as the representative of Slovenia would be particularly useful in that regard.

38. Mr. PARSHIKOV (Russian Federation) commended the High Commissioner on his report and pledged Russia's support in funding the activities of his Office. Recently, a meeting had been held in Geneva at which the High Commissioner had given a detailed report on his visit to the Baltic Republics. Although the Permanent Mission of the Russian Federation had received a report on that meeting, he would welcome further information on any specific recommendations made by the High Commissioner to the Governments concerned regarding the problems encountered by large groups of the population of different ethnic origin. That would be in line with the General Assembly's request to the Secretary-General that he keep Member States informed of the situation of human rights in Estonia and Latvia (General Assembly resolution 48/155). In particular, he wondered whether the High Commissioner had made any recommendations regarding compulsory language examinations, and the granting of multiple exit visas and residence and work permits to those population groups.

39. Mr. SREENIVASAN (India) commended the High Commissioner on his efforts over the past year and assured him of India's future cooperation. Referring to paragraph 101 of the report (A/49/36), he asked whether a list had been compiled of all the United Nations agencies and parts of the Secretariat dealing with human rights matters. That would be useful for assessing how they were fulfilling their mandates and whether they needed to be strengthened.

40. He recalled that, when discussing the mandate of the High Commissioner, the Third Committee had agreed that human rights issues must not be used for political purposes. He therefore objected to the fact that, in the course of the current debate, the representative of Pakistan had used human rights issues to substantiate his country's territorial claims to a region of India. It was widely acknowledged that the situation in that region had been caused by terrorism sponsored and supported by Pakistan. Moreover, the Vienna Declaration and subsequent Third Committee resolutions had pointed to terrorism as one of the greatest threats to human rights. He would welcome the comments of the High Commissioner in that connection, especially on State terrorism and resulting human rights violations.

41. Mr. LAMPTEY (Ghana), after expressing appreciation for the activities and report of the High Commissioner, said that he would welcome further information on how the High Commissioner intended to fulfil the other important aspect of his mandate: to rationalize, adapt, strengthen and streamline the United Nations machinery in the field of human rights with a view to improving its efficiency and effectiveness.

42. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights), replying to the query by the Russian representative, said that it was customary for him to meet regularly with regional groups to report on his activities. Accordingly, he had held an informal meeting with the countries concerned upon his return from the Baltic States. He certainly had nothing to hide, since Governments had received a full report on that meeting through the diplomatic channel. There was none the less a distinction between informal forums and formal ones such as the current meeting which he wished to respect.

43. He assured the Russian representative that, during his visit to the Baltic States, he had taken up all the issues raised in his report, had borne in mind the many relevant recommendations of the Council of Europe and CSCE and had publicly expressed satisfaction at the progress made by those countries in the protection of human rights.

44. Turning to the statement by the representative of India, he said that when referring in paragraph 101 of his report (A/49/36) to the relevant parts of the Secretariat, he had in mind, inter alia, the Crime Prevention and Criminal Justice Branch. However, the review would be extended to all human rights bodies, since as High Commissioner it was his duty to deal with all aspects of human rights.

45. In response to the query by the representative of Ghana, he said that he did have some ideas about the other aspect of his mandate, but would prefer to allow the Working Group sufficient time to complete its work. So far, the Working Group had not sought his advice, but he would be glad to make suggestions in due course, if so requested. He welcomed the expressions of support for the activities of his Office thus far, which would help to achieve the desired results. He underlined the valuable work being done by the Centre for Human Rights and urged delegations to facilitate its task by agreeing to provide the necessary financial and human resources.

46. The CHAIRMAN thanked the High Commissioner for his very comprehensive report and for the detailed replies he had given to questions, which had clarified a number of important issues. He also thanked the Assistant Secretary-General for Human Rights, Mr. Fall, for attending the meeting.

47. Mr. KHAN (Pakistan) said that, regrettably, he could not let the fallacies in the Indian representative's statement go unchallenged. He had felt it necessary to bring the human rights violations in Jammu and Kashmir to the attention of human rights bodies and the High Commissioner. Kashmir was not an integral part of India. It was recognized as a disputed territory by Security Council resolutions and United Nations maps, and a United Nations peace-keeping force was currently deployed there. India had levelled charges of terrorism against Pakistan on numerous occasions, but in his view the current situation in Jammu and Kashmir was the worst example of State terrorism and was being financed and supported by the Indian Government and executed by 600,000 Indian troops. In any case, he had simply appealed to the High Commissioner to look into the situation, and not to pass judgement on it before his visit to the region. Lastly, the Vienna Declaration did not in any way limit discussion of the political dimensions of human rights situations world wide.

The meeting rose at 6.15 p.m.